



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
21.10.2019	07.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD) No.23754 of 2018

and

W.M.P.(MD) Nos.21515, 21516, 21517, 21518 & 21849 of 2018

P.Rengasamy

... Petitioner

-VS-

1.The District Collector cum
The Chairman of the District Environment
Impact Assessment Authority
Trichy
Trichy District

2.The Assistant Director
Mines and Minerals
Geology and Mining Department
Trichy
Trichy District

3.The District Environment Engineer
Tamil Nadu Pollution Control Board
Trichy
Trichy District

4.A.Malliga

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for records pertaining to the impugned order passed by the 1st respondent in Rc.No.385/2017/Mines on 14.08.2018 by permitting the 4th respondent for quarrying of land in Survey No.63 in Karatampatti Village, Musiri Taluk, Thiruchirapalli District and quash the same as illegal and consequentially direct the respondents to preserve the water body, check dam, water supply system, in Survey No.63 of Karatampatti Village, Musiri Taluk, Thiruchirapalli District.



For Petitioner : Mr.R.Rajaraman

For Respondents : Mr.A.K.Baskarapandian
Special Government Pleader for R1 & R2
Mr.V.Vasanthakumar for R3
Mr.R.Singaravelan, Senior Counsel
assisted by Ms.J.Anandhavalli for R4

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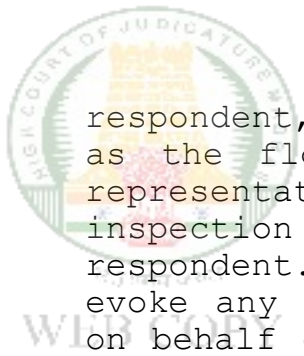
O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

This writ petition filed as a public interest litigation by a resident of Karattampatti Village, Musiri Taluk, Tiruchirappalli District, seeks for issuance of a writ of certiorarified mandamus to quash the proceedings of first respondent, dated 14.08.2018, granting permission to the fourth respondent for quarrying stone in Survey No.63 of Karatampatti Village, Musiri Taluk, Tiruchirappalli District and for a consequential direction to the official respondents to preserve the water body, check dam, water supply system in the said survey number.

2. The petitioner would state that the land comprised in Survey No.63 of Karatampatti Village, measures a total extent of 6.13.0 Hectares and it is a water body, but has been wrongly shown in the revenue records as a rocky terrain. It is stated that in the said land, there is a Kasivu Neer Kuttai (கசீவு நீர் குட்டை) and a check dam constructed by the Public Works Department during the year 1985 - 1986 with a bund (கண்மாய் கரை), measuring a breadth of 20 Feet and height of 15 Feet. A borewell was installed inside the water body utilizing the funds allotted to the Member of Legislative Assembly incurring a cost of Rs.3,00,000/-, which is the main drinking water source for the said Village.

3. Further, it is stated that there is a graveyard situated near the water body and several trees are planted on the bund margin. An electricity transformer is located within the radius of 100 Meters, Pulivalam forest is at a distance of about 500 Meters and there are houses also nearby the water body. It is further stated that periodically, the villagers undertake cleaning and deepening work of the water body and roughly 4000 men are deployed, who are all villagers in and around the said area. This is done because the said water body is the main source for irrigating the crops. It is submitted that the official respondents, without conducting any spot inspection and without ascertaining the physical and geographical condition of the land and without undertaking environmental impact assessment, mechanically passed the impugned order, dated 14.08.2018, granting stone quarry lease to an extent of 2.71.0 Hectares in favour of the fourth respondent. On coming to know about the grant of stone quarry lease in favour of the fourth



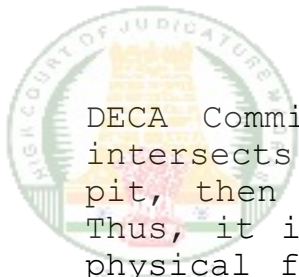
respondent, which will have a great impact on the water body as well as the flora and fauna in the area, the villagers submitted a representation requesting the Authority concerned to make a spot inspection and cancel the lease granted in favour of the fourth respondent. According to the petitioner, the representation did not evoke any response from the Authority concerned and therefore, he, on behalf of himself as well as the villagers, has approached this Court by filing this writ petition.

4. Mr.R.Rajaraman, learned counsel appearing for the petitioner, after reiterating the above factual contentions, submitted that the grant of lease in favour of the fourth respondent is wholly illegal as it has been done without any inspection and the Authorities have failed to appreciate the efforts put in by nearly 4000 villagers in deepening and cleaning the water body and ignoring the plight of the villagers, in a mechanical manner, have granted the stone quarry lease to the fourth respondent. It is submitted that if the fourth respondent commences quarry operation, it will not only damage the water body, but the check dam, trees, tank bund, graveyard and also affect the drinking water supply, which is made through the borewell installed inside the water body utilising the funds of the Member of Legislative Assembly.

5. The learned counsel appearing for the petitioner has drawn our attention to the photographs placed in the typed set of papers to show the physical features of the land in Survey No.63. It is submitted that the Public Works Department having constructed a check dam, it goes without saying that the Government has recognized the same as a water body and when all the villagers have jointly given a representation, the Authorities failed to take note of the same and have arbitrarily granted lease.

6. The learned counsel for the petitioner has also referred to the newspaper reports, which have extensively covered the agitation done by the people of the area objecting to the grant of quarry lease, wherein there is a reference to the assurance given by the District Collector that he will look into the complaint and redress the grievance.

7. The learned counsel for the petitioner has referred to the information obtained by one Mr.M.Baskar, under the Right to Information Act, to show that the Authorities have admitted the existence of the water body, borewell, kalungu, trees etc. The learned counsel has also referred to the copies of the reports submitted by the officials, which have been filed in the typed set of papers by the learned Special Government Pleader and submitted that the report of the Village Administrative Officer, Karatampatti Village, clearly shows the existence of the water body. Further, it is submitted that the Assistant Director, Public Works Department, Ground Water Division, Trichirappalli, who is one of the Members of



DECA Committee, in his remarks has stated that if mining depth intersects the water table or continuous seepage occurred in the pit, then the applicant should inform to the concerned Department. Thus, it is submitted that the Authorities were fully aware of the physical features of the area and despite that, the Committee has recommended for grant of stone quarry lease. Therefore, it is submitted that this Court should interfere in the matter and quash the impugned proceedings of the first respondent granting stone quarry lease in favour of the fourth respondent.

8. When the writ petition was heard, the Division Bench, by interim order dated 30.11.2018, stayed the operation of the impugned order dated 14.08.2018 until further orders and also granted injunction restraining the fourth respondent and her agents and men from conducting quarry operations pursuant to the order dated 14.08.2018 until further orders.

9. The first respondent filed counter affidavit *inter alia* stating that in terms of Rule 8(1)(a) of Tamil Nadu Minor Mineral Concession Rules, 1959 (in short "the Rules"), a notification was issued in the District Gazette, dated 02.06.2017, inviting applications for grant of lease for quarrying rough stone in the Government poramboke lands, after completing the process for grant of such leases to special categories. It is stated that 20 stone quarries were listed in the District Gazette and the subject stone quarry is found place in Serial No.12, measuring an extent of 2.71.0 Hectares out of the total extent of 6.13.0 Hectares in the Government poramboke land, comprised in S.F.No.63 (Part). The fourth respondent being the highest bidder having offered the bid amount of Rs.17,00,000/- was confirmed as a successful bidder and lease was granted for a period of ten years under Rule 8(8) of the Rules.

10. It is submitted that the first respondent had earlier directed the Tahsildars to verify the suitability of the area, where stone quarry leases were proposed to be granted and after taking into consideration the reports, notification was issued. It is submitted that insofar as the subject stone quarry, the Tahsildar, Musiri Taluk, after inspection identified a fresh stone quarry in the Government poramboke land comprised in S.F.No.63 and after inspection and adhering to the conditions prescribed under Rule 36 of the Rules, the subject stone quarry was included as one among the quarries to be allotted by following the tender-cum-auction process. After completion of the said process, the fourth respondent was informed about precise area of the quarry in terms of Rule 42(5) of the Rules and directed to submit a draft mining plan and thereafter, obtain environment clearance from the District Level Environmental Impact Assessment Authority in terms of Rule 42 of the Rules.

11. In terms of the above direction, the fourth respondent



submitted a draft mining plan to the second respondent, who, by proceedings dated 24.10.2017, approved the same. The said approved mining plan was placed before the District Level Environmental Impact Assessment Authority (DLEIAA) for clearance. The said Authority, after making a full inspection, cleared the mining plan from the environmental aspect vide proceedings dated 23.05.2018. Likewise, the Tamil Nadu Pollution Control Board issued orders of consent under the Air & Water (Prevention and Control of Pollution) Act, 1981, by proceedings dated 24.06.2018. Thus, it is submitted that inspection was conducted on multiple occasions and it is incorrect for the petitioner to state that approval was granted without verifying the physical and geographical conditions of the land in question.

12. It is submitted that as per the revenue records, the land in question is an unassessed waste dry land, measuring a total extent of 6.13.0 Hectares and in the village records, it has been classified as ghiw (Stone) poromboke land. It is further submitted that one Mr.M.Kannan, who was a quarry worker, was permitted to quarry stone in the said land during the year 1986 to 1989 with a condition that he should adopt only manual process. However, when he started using explosives, he was prevented from doing any quarry work. It is, therefore, submitted that the pits, in which water are stagnated, were formed on account of the earlier quarrying activities and by efflux of time, they have formed into percolation ponds.

13. It is further submitted that even as per the information provided under the Right to Information Act, vide reply dated 14.11.2018, all the structures, namely, graveyard, electricity transformer, Pulivalam forest are well away from the stipulated safety distance of 50 Meters prescribed in Rule 36 of the Rules. The other structures, such as, check dam, deep borewell, trees are far away from the leased out portion and after assessing all these factors, the District Level Environment Impact Assessment Authority has granted clearance vide proceedings, dated 23.05.2018. Thus, the first respondent seeks to sustain his order, dated 14.08.2018, stating that it is in accordance with the Rules, more particularly, Rules 8, 41 and 42 of the Rules.

14. It is further submitted that the check dam, bund and borewell are all existing in the non-leased out area of S.F.No.63 (Part). Further, the order passed in favour of the fourth respondent has imposed special conditions restricting the quarry operation to be done 50 Meters away from the electric high tension line passing across the site and maintaining a minimum safety distance of 10 Meters to the adjacent portion of Government poromboke land in S.F.No.63 (Part) and a safety distance of 7.5 Meters to the patta land. Thus, the first respondent would contend



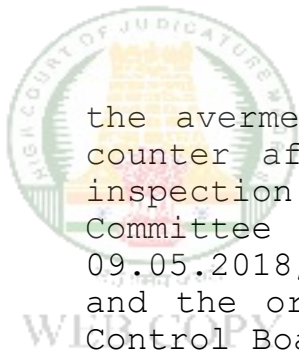
that the grant of lease in favour of the fourth respondent has been done in accordance with the Rules and the quarry should be permitted to function in the interest of mineral development and public interest.

15. The counter affidavit filed by the first respondent, dated 26.12.2018, was placed before the Division Bench, when the matter was heard on 09.07.2019. Noting the averments in Paragraph No.9 of the counter affidavit filed by the first respondent, the Division Bench observed that the counter affidavit is not clear as to the distance between the stone quarry, for which lease has been granted to the fourth respondent, and the check dam, bunds and borewells. When this was pointed out, the learned Special Government Pleader sought time to file additional counter affidavit and accordingly, the matter was adjourned to 16.07.2019. Accordingly, the first respondent has filed additional counter affidavit, dated 16.07.2019.

16. In Paragraph No.5 of the additional counter affidavit, it is submitted that the land in question is classified as "Government Unassessed Waste" "Parai" in the Village "A" Register and out of the total extent of 6.13.0 Hectares (15.14 Acres), an extent of 2.17.0 Hectares (6.69 Acres) alone is proposed to be leased for conducting stone quarry operation. It is further submitted that on the eastern side of the proposed quarry site, there exist pits, which may be formed due to the manual quarrying operation in the earlier years and during rainy season, water may be stored in the pits. It is further submitted that a sluice has been constructed in order to regulate the overflowing water from the pits. The distance between the bund and the eastern boundary of the proposed quarry site is 5 Meters. It is further stated that the fourth respondent may be instructed to maintain 10 Meters safety distance from the eastern boundary of the lease land. Further, the pits are only temporary formation, because of illegal quarrying by manual operation done by the public. It is further submitted that since the Panchayat has constructed a sluice, the petitioner would contend that it is a water body, but the land in S.F.No.63 (Part) is not a water body. It is further stated that a deep borewell has been formed on the eastern side of S.F.No.63 (Part) by the local administration department during the year 2017 - 2018 and the distance between the eastern boundary of the proposed quarry site of the borewell is 170 Meters. It is further stated that trees are available then and there in the eastern portion of the land nearer to the borewell, which is also a part of S.F.No.63 (Part) and therefore, the fourth respondent may be instructed to maintain 10 Meters safety distance from the border of the land earmarked for quarry operation.

17. Mr.A.K.Baskarapandian, learned Special Government Pleader, appearing for the respondents 1 and 2, after referring to

<https://hcservices.ecourts.gov.in/hcservices/>



the averments set out in the counter affidavit and the additional counter affidavit filed by the first respondent, referred to the inspection report of the Tahsildar, dated 27.03.2017, report of DECA Committee dated 12.10.2017, report of DEIAA Committee dated 09.05.2018, order dated 23.05.2018 granting environmental clearance and the order dated 24.06.2018 passed by the Tamil Nadu Pollution Control Board granting clearance.

18. It is submitted that the above reports will clearly show that the procedures contemplated under the Rules have been strictly adhered to and there is no error in the order passed by the first respondent granting lease in favour of the fourth respondent.

19. Mr.R.Singaravelan, learned Senior Counsel assisted by Ms.J.Anandhavalli, learned counsel appearing for the fourth respondent supported the stand taken by the learned Special Government Pleader and submitted that when the procedures contemplated under the Rules have been strictly adhered to and orders have been passed, the attempt of the petitioner is only to prevent the lawful quarrying operation and this is with an intention to sustain the illegal quarrying operation, which were being carried on in the said area for quite some years.

20. The learned Senior Counsel appearing for the fourth respondent further submitted that it is a common knowledge that the entire area is a rocky terrain and this clearly visible to the naked eye to any person travelling by road in the said area. Therefore, the plea raised by the petitioner that the land in question is a water body is frivolous and the writ petition is liable to be dismissed.

21. We have elaborately heard the learned counsels and perused the materials placed on record.

22. The Ministry of Environment and Forests, Government of India, issued a notification, dated 14.09.2006, in exercise of the powers conferred by Sub-Section (1) and Clause (v) of Sub-Section (2) of Section 3 of the Environment (Protection) Act, 1986 read with Clause (d) of Sub-Rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the earlier notification, dated 27.01.1994, directed that on and from the date of publication of the notification, the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to the notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under Sub-Section (3) of



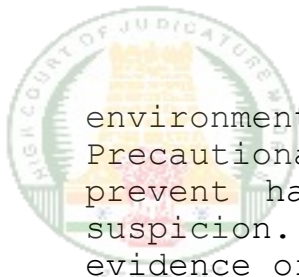
Section 3 of the said Act, in accordance with the procedure specified in the notification.

23. In terms of Clause-3 of the notification, a direction was issued for constitution of State Level Environment Impact Assessment Authority, under Sub-Clause (3) of Clause-3 of the notification, comprising of three members to be nominated by the State Government; Clause-4 of the notification deals with categorization of projects and activities; Clause-5 deals with screening, scoping and appraisal committees; Clause-6 deals with application for prior environmental clearance; Clause-7 deals with stages in the prior environmental clearance process for new projects; Clause-8 deals with grant or rejection of prior environmental clearance; Clause-9 deals with validity of environmental clearance; Clause-10 deals with post environmental clearance monitoring; Clause-11 deals with transferability of environmental clearance and Clause-12 deals with operation of EIA notification, 1994, till disposal of pending cases.

24. A reading of the notification, dated 14.09.2006, reveals the sensitivity behind such projects and environmental impact that would occur if the projects listed therein are undertaken. Thus, the notification seeks to achieve the object of the provisions of the Environment (Protection) Act, 1986, thereby placing environmental protection on a higher pedestal than commercial activities, such as, exploitation of mines and minerals.

25. The Honourable Supreme Court in the case of **Subhash Kumar vs. State of Bihar**, reported in **AIR 1991 SC 420**, held that the right to live, a fundamental right under Article 21 of the Constitution of India, includes the right of enjoyment of pollution free water and air for full enjoyment of life; if anything endangers or impairs their quality of life in derogation of laws, citizens have the right to invoke Article 32 of the Constitution of India.

26. In **M.C.Mehta vs. Union of India**, reported in **AIR 2004 SC 4016**, it was pointed out that the development and the protection of environments are not enemies. If without degrading the environment or minimising adverse effects thereupon by applying stringent safeguards, it is possible to carry on development activity applying the principles of sustainable development, in that eventuality, the development has to go on because one cannot lose sight of the need for development of industries, irrigation resources and power projects, etc., including the need to improve employment opportunities and the generation of revenue. A balance has to be struck. In such matters, many a times, the option to be adopted is not very easy or in a strait-jacket. If an activity is allowed to go ahead, there may be irreparable damage to the environment and if it is stopped, there may be irreparable damage to economic interest. In case of doubt, however, protection of



environment would have precedence over the economic interest. Precautionary principle requires anticipatory action to be taken to prevent harm. The harm can be prevented even on a reasonable suspicion. It is not always necessary that there should be direct evidence of harm to the environment.

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27. In the above cited decision, the Honourable Supreme Court has held that protection of environment would have precedence over economic interest. It is further held that it is not necessary to act after the harm has occurred, precautionary principle requires anticipatory action to be taken to prevent harm. Further harm can be prevented even on a reasonable suspicion and it is not always necessary that there should be direct evidence of harm to the environment.

28. Bearing the above legal principle in mind, we need to test the challenge before us in this writ petition.

29. The petitioner's contention is that the land in question has been erroneously classified as a rocky terrain (பாறை புறம்போக்கு) and unassessed Government waste dry land, when the fact remains that there is sufficient evidence to show that it is a water body. Three aspects are brought before this Court to state that the proposed quarry site lies within the water body. The first is a sluice, which has been constructed by the Public Works Department. Secondly, tank bund showing clear evidence of existence of a water body and thirdly, existence of a deep borewell inside the water body, which caters to the drinking water needs of the villagers. The petitioner has further stated that the villagers have got together and conducted mega cleaning and deepening drives to maintain the storage area of the water body. Apart from that, it has been stated that the sluice has been constructed by utilizing the funds allotted to the Member of Legislative Assembly.

30. The counter affidavit filed by the first respondent, dated 26.12.2018, does not dispute the existence of sluice, deep borewell. It has been stated that there is no water body, but water get collected in the pits, which were formed on account of the earlier manual stone quarrying in the said land. This counter affidavit, dated 26.12.2018, was found to be vague as the distance between the stone quarry and the sluice, bunds and borewell were not mentioned. Additional counter affidavit, dated 16.07.2019, was filed by the first respondent and the averments set out in Paragraph Nos.6 to 8 would be relevant, which read as under:

"6) I further submitted that, on the eastern side of the proposed lease land, pits are there which may be formed due to the manual quarrying operation in the early years. During the rainy season water may be stored in the pits. A sluice



has been constructed in order to regulate the over flowing water from the pits. A distance of 5 meters are there between the bund and the eastern boundary of the land earmarked for lease. The leasee may be instructed to maintain 10 meter safety distance from the eastern border of the lease land. The subject matter of the land viz S.F.No.63(p) is a rock Poromoboke (பொம்புகை). The pits are only temporaryt formation because of the illegal quarrying by manual operation done by the public. Since the Panchayat has constructed a sluice, the petitioner contends that it is a water body. The land in S.F.No.63(p) is not a water body.

7) I humbly submit that, a deep borewell has been formed on the eastern side of S.F.No.63(p) by the local administration department during the year 2017-2018. The distance between the eastern border of the land earmarked for quarrying operation and the borewell is 170 meters.

8) I further humbly submit that, trees are available then and there in the eastern part of the land nearer to the borewell which is also a part of S.F.No.63(p). The leasee may be instructed to maintain 10 meter safety distance from the border of the land earmarked for quarrying operations."

31. On a reading of Paragraph No.6 of the additional counter affidavit, it is clear that the first respondent has not categorically stated that the pits were formed due to manual quarrying in the earlier years, but, has stated that it may have been formed due to manual quarrying. This averment has to be definitely rejected as vague and has to be taken to be a clear admission of existence of pits, equally the averment regrading storage of water as the first respondent states that due to rain, water may be stored in the pits. There is a candid admission of construction of a sluice for the purpose of regulating the flow of water, which according to the first respondent is the overflow of water from the pits. The existence of the bund on the eastern side of the proposed quarry site is admitted and the distance between the bund and the proposed quarry site is 5 Meters. Having said so, the first respondent states that the fourth respondent should be instructed to maintain 10 Meters safety distance from the eastern border of the proposed quarry site. Thus, it is clear that there is a bund within the prohibited distance. A bund is a natural formation and the corollary is that there is an existence of a water body and the bund protects the water body and helps for retention of water. The statement made in the counter affidavit that the fourth

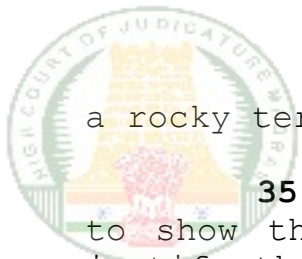


respondent should be directed to maintain 10 Meters safety distance clearly shows that the proposed quarry site is within the prohibited distance, as the distance is only 5 Meters.

32. The construction of sluice, though has been admitted by the first respondent, it is stated that merely because the same has been constructed, it cannot be stated that the land in question is a water body. We are unable to appreciate such a stand taken by the first respondent. The Public Works Department or any other Department of the Government, which deals with water resources, will not mechanically permit construction of sluice unless and until it is established that there is a water body and there will be flow or overflow of water. The purpose of constructing sluice is to regulate the flow of water to help agriculturists and villagers of the area. Therefore, the first respondent is not justified in discrediting the officials, who with due application of mind, had permitted construction of sluice.

33. We have come across cases, where demand is made by the riparian land owners for the construction of sluice at appropriate places in rivers, canals, channels etc., with a view to obtain uninterrupted supply of water for their agricultural operation. This request is invariably opposed by the lower riparian land owners stating that if a sluice is constructed at a higher level, their entitlement to the water will be affected. Thus, a lot of thought process goes into before a decision is taken to construct a sluice. Therefore, unless and until there is flow of water, no official decision would be taken for construction of sluice. The money spent for construction of sluice is public funds, which further would legitimise the plea of the petitioner to substantiate the existence of a water body. Similarly, the existence of bund, which in most cases is a natural formation, is a strong evidence to come to the conclusion that there is a water body. Merely because there is no water in the tank or in the pond, it will not change the classification of the land. In the instant case, the first respondent would state that the land is classified as Parai poromboke. There is nothing on record to show that a rocky terrain cannot be a percolation pond or a tank or any other form of water body.

34. The classic example, which is known to all, is the tank within the campus of the Madurai Bench of Madras High Court. During summer season, after the water recedes, the bed of the tank is fully exposed and it is a rocky terrain. The Public Works Department, Madurai, while sinking deep borewells in the campus, have found that upto a depth of about 20 Feet, it is rock and only thereafter, the water table can be accessed by further drilling upto a minimum of about another 200 Feet. Therefore, the stand taken by the first respondent in the counter affidavit can in no manner advance the case of the Department. In other words, even if the entire area is



a rocky terrain, still it can be a water body.

35. We are fully convinced that there is sufficient evidence to show that there is a water body in the land in question. To justify the action in granting permission for stone quarry, a vague averment has been made that pits may have been formed due to manual quarrying, which according to the first counter affidavit, was for a period of three years from 1986 to 1989. Even assuming the said averment is right, it would have been a case of illegal quarrying in a water body, which is a rocky terrain. Unless and until earth moving equipments and heavy machineries are deployed, quarrying to great depth cannot be done. Therefore, if manual quarrying was permitted or done illegally for three years, it could have resulted in small pits and not deep pits, where there would be a necessity to construct a sluice to regulate the overflow of water. Thus, the averments set out in the counter affidavit and the additional counter affidavit can in no manner substantiate the stand taken by the first respondent to justify the grant of permission to quarry stones in the land in question.

36. As pointed by the Honourable Supreme Court, we need not wait till harm occurs and we need not wait till the people suffer without water for irrigation and drinking purposes. Courts are empowered to take anticipatory action to prevent such illegality and the harm that may be caused to the public. Protection of environment is of paramount importance and economic interest will have to take a back seat when pitted against environmental interest and public interest.

37. Further, the report of the Tahsildar, Musiri, dated 27.03.2017, shows the existence of a Kuttai (குட்டை) to an extent of 2.50 Acres, but it is dry. The existence of low tension electric cable has also been noted. The Tahsildar would state that apart from the area, which is Kuttai (குட்டை), the remaining area measuring 5.13.0 Ares is suitable for stone quarry. The report of the Tahsildar, Musiri, dated 27.03.2017, shows the existence of Kuttai (குட்டை) to an extent of 2.50 Acres. The DECA Committee, which is stated to have conducted inspections on 12.10.2017, 05.12.2017 and 06.12.2017, has recommended the proposal to grant permission for stone quarry for a period of five years. Interestingly, the Assistant Director, Public Works Department, Ground Water Division, Tiruchirappalli, who is one of the Members of DECA Committee, has qualified his recommendation by stating that if mining depth intersects the water table or continuous seepage occurs in the pit, then the applicant should inform the concerned Department. This qualification made by the Public Works Department, Member of the Committee, is very relevant, because it indicates that there is a water table underneath the proposed site. The recommendations made by the other Authorities are not speaking orders, but, a mere



recommendation with their signature.

38. It is further relevant to note that the DECA Committee, which recommended the grant of permission for rough stone quarry, has recommended the period of grant for five years only, whereas the first respondent, in the impugned order, has granted permission for ten years.

39. Thus, in the light of the findings rendered by us, imposition of any condition while granting clearance or granting lease is of little avail as the selection of the site itself is illegal. We cannot accept the submissions made on behalf of the fourth respondent that it is a common knowledge that the entire area is a rocky terrain and therefore, there is no error in granting permission. Admittedly, the subject land has been selected for grant of permission to quarry stone for the first time and as per the averments made in the counter affidavit of the first respondent, for a brief period of three years, manual stone quarrying was permitted, but, because of violation of condition, the same was stopped. If illegal quarrying has been done in any area, then it is the officials, who have to be first blamed for not enforcing the law and they cannot be permitted to take advantage of their own wrong.

40. For the all the above reasons, we are of the clear view that the impugned order is wholly unsustainable, illegal, arbitrary and in absolute denigration of the Environmental Laws.

41. In the result, the writ petition is allowed as prayed for. The impugned order dated 14.08.2018, passed by the first respondent is quashed and all other proceedings, which preceded the issuance of the impugned order, are also quashed. The respondents are permanently restrained from granting any permission for quarrying stone operation or light material in the land comprised Survey No.63 of Karattampatti Village, Musiri Taluk, Tiruchirappalli District. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)



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To:

1.The District Collector cum
The Chairman of the District Environment,
Impact Assessment Authority,
Trichy, Trichy District.

2.The Assistant Director,
Mines and Minerals,
Geology and Mining Department,
Trichy, Trichy District.

1 CC to M/s.R.RAJARAMAN, Advocate (SR-96617[F] dated 07/11/2019)

+1 CC to M/s.J.ANANDHAVALLI, Advocate (SR-97163[F] dated 08/11/2019)

W.P. (MD) No.23754 of 2018

and

W.M.P. (MD) Nos.21515, 21516, 21517,

21518 & 21849 of 2018

07.11.2019

KK/SAR/20.11.2019/14P-5C/