



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.20845 of 2017

and

W.M.P. (MD) .Nos.17127 and 17128 of 2017

C.Durairaj Thevar

... Petitioner

vs.

The Tahsildhar,
Ponnamaravathi Taluk,
Ponnamaravathi,
Pudukkottai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.8125/2017/A8 dated 06.11.2017 and to quash the same as illegal and without jurisdiction and consequently forbearing the respondent from preventing the petitioner to lift the sand from petitioner's 'patta land in Old S.F.No.3 and New SF.No.3/2 admeasuring 15.5 acres situated at Neiveli Village, Vallkurichi Taluk, Pudukkottai District to enable the petitioner to form fish ponds and to dump the sand to the petitioner's patta land in SF.No.115/4B in patta No.1291, Arasamalai Village, Pudukkottai District for agricultural purposes.

For Petitioner : Mr.B.Saravanan
For Respondents : Mrs.J.Padmavathi Devi
Special Govt. Pleader

O R D E R

The petitioner is a farmer. He owns punja land in old S.F.No.3 and New SF.No.3/2 admeasuring 15.5 acres situated at Neiveli Village, Vallkurichi Taluk, Pudukkottai District. He sought permission from the Director of Fisheries to form a fish pond in his property. For that purpose, he has to excavate the soil from his lands and dump it in another land. He also owns lands in S.F.No.115/4B and 115/5B3 in patta No.1291, Arasamalai Village, Pudukkottai District, where the soil can be dumped. For removing the sand and dumping it in another place, he applied for permission from the respondent/Tahsildar. However, the respondent in his proceedings in Na.Ka.No.8125/17/A8 dated 06.11.2017, has directed the petitioner to approach the Assistant Director of Geology and Mining for getting permission. Aggrieved over the same, the petitioner comes before this Court.



2. According to the petitioner, he is not dealing with any commercial quantity or commercial transaction. He wants to remove the soil from one land to other land, owned by him for the purpose of forming fish pond. For that purpose, as per Section 17 of the Tamil Nadu Minor Mineral Concession Rules, 1959 (hereinafter called Rules), it does not require any permission and no authority is specified in the rules. Therefore, the petitioner seeks this Court to quash the order passed by the respondent permitting him to remove the sand from one place and dumping it in another place.

3. Per contra, the learned Special Government Pleader would vehemently contend that even if the soil is taken away from patta land of the petitioner, he requires permission in accordance with law. In support of her contention, he relies on a proceeding of the District Collector in Na.Ka.No.2008/2018- Kanimam, dated 28.02.2019. In that proceeding, it is seen that the District Collector has directed the Tahsildar to conduct an inspection and submit a report to the District Collector. On the basis of the above proceedings, she further submitted that on recommendation by the Tahsildar, certain conditions for payment of seigniorage fee, the petitioner is entitled to remove the soil and transfer it to some other place.

4. Considering the fact that for transporting the soil for own purposes from the own lands, Rule 17 of the above Rule does not specify any permission from any specific authority designated. The counsel also could not produce any order or instructions in this regard. For domestic use, permission can be accorded by the Tahsildar himself and the ryots shall not be forced to follow the long winding process of obtaining permit as it is done in commercial purpose permits. However, in view of the proceedings submitted by the Special Government Pleader, a direction is issued to the respondent to conduct spot inspection and to prepare a report as it is being done in other cases. He shall also forward the same along with the application submitted by the petitioner together with his recommendation to the District Collector within a period of two weeks from today. On receipt of the application, report and recommendation the District Collector, Pudukkottai shall consider the same and pass orders within a period of two weeks thereafter.

5. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar



W.P. (MD) No.20845 of 2017

To:

1 The Tahsildhar,
Ponnamaravathi Taluk,
Ponnamaravathi,
Pudukkottai District.

2 The District Collector,
Pudukkottai.

+1 CC to M/s.B.SARAVANAN, Advocate (SR-90145[F] dated 27/09/2019)

+1 CC to M/s.SPL GP (SR-90542[F] dated 30/09/2019)

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vs

MS/04.10.2019/3P.5C