

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.11294 of 2020

and

W.M.P.Nos.13770, 13772 & 15029 of 2020

K.Kaniyarasu

S/o.Late Kalimuthu Gounder

S.F.No.350 Perumpathi

Zamin Kalliapuram Post

Pollachi Taluk

Coimbatore District - 642 110.Petitioner

Vs.

1.The District Collector
Collectorate Buildings
Coimbatore - 18.

2.The Director
Mines and Minerals Department
Guindy Industrial Estate
Guindy, Chennai-32.

3.The Joint Director
Mines and Minerals Department
Collectorate Buildings
Coimbatore - 18.02.2013

4.M/s. Alpha Silicon Company
S.F.No.347, Perumpathi
Zamin Kaliapuram Post
Pollachi Taluk
Coimbatore District - 642 110.

5.The Assistant Director
Ground Water Geological Survey Division
Public Works Department
Town Hall
Coimbatore - 18.

6.The Executive Engineer
Ground Water Geological Survey Division
Public Works Department
Salem - 7.

7.The Block Development Officer
Pollachi North Union
Pollachi - 01.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent made in Proceedings in Na.Ka.No.352/Mines/2018 dated 11.03.2020 and quash the same and consequently, direct the 1st respondent not to grant any permission for mining/M-sand operation in Agricultural land situated in S.F.Nos.347, 351, 334, 348 with their subdivisions at Puravipalayam Village, Pollachi Taluk, Coimbatore District.

For Petitioner : Mr.N.Umapathi
For Respondents : Mr.E.Manoharan
Special Government Pleader
for R1 to R3
Ms.S.Yogalakshmi, for R4

O R D E R

This matter is taken up for hearing through Video Conferencing mode.

2. This writ petition is filed challenging the order of the first respondent dated 11.03.2020, wherein, the first respondent has granted permission to the 4th respondent for mining/M-sand operation at the subject matter land.

3. The grievance of the petitioner is that the first respondent ought not to have granted permission, since several residential accommodations are situated nearby the said site and therefore, such location is impermissible. It is the further grievance of the petitioner that though he has made objections before the first respondent, which was also recorded by him, the impugned order was not served on the petitioner by marking a copy to him. The learned counsel for the petitioner thus, submitted that the impugned order is liable to be set aside.

4. On the other hand, the learned Special Government Pleader for the respondents 1 to 3 submitted that though permission is granted, still the 4th respondent cannot operate, unless a clearance is given by the State Environment Impact Assessment Authority. He further submitted that insofar as stone crushing Unit is concerned, the official respondents herein are nothing to do with the same, as the permission is given by the Pollution Control Board.

5. The learned counsel for the 4th respondent, who filed a vacate stay petition, submitted that the stay granted by this Court causes great inconvenience, as further proceedings cannot be carried out in pursuant to the order passed by the 1st respondent. She also submitted that the petitioner was heard by the 1st respondent before passing the impugned order and therefore, the principles of natural justice has been fully complied with.

6. Heard both sides.

7. Perusal of the impugned order would show that the petitioner has also made objections before the 1st respondent and given written submissions at the time of enquiry making objections to the location of mining operations. However, further perusal of the order shows that the petitioner was not served with the copy of the impugned order. In any event, as I find that the impugned order is appealable before the 2nd respondent, all the factual contentions raised by the respective parties can be gone into by the 2nd respondent in an appeal and decide the same on merits and in accordance with law. Therefore, without expressing any view on the merits of the contentions raised by both parties, this Writ Petition is disposed of, with the following directions:

(a) The petitioner is permitted to file an appeal before the 2nd respondent against the impugned order passed by the 1st respondent within a period of seven days from the date of receipt of a copy of this order.

(b) On receipt of such appeal, the 2nd respondent shall hear both the parties concerned and pass orders on the same on merits and in accordance with law, within a period of three weeks thereafter.

(c) Till an order is passed by the 2nd respondent, status quo as on today shall be maintained in pursuant to the impugned order insofar as the mining permission is granted.

No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Collector
Collectorate Buildings
Coimbatore - 18.

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Mines and Minerals Department
Guindy Industrial Estate
Guindy, Chennai-32.

3.The Joint Director
Mines and Minerals Department
Collectorate Buildings
Coimbatore - 18.02.2013

4.The Assistant Director
Grand Water Geological Survey Division
Public Works Department
Town Hall, Coimbatore-18

5.The Executive Engineer
Grand Water Geological Survey Division
Public Works Department
Salem

6.The Block Development Officer
Pollachi North Union, Pollachi-01.

+1cc to Mr.Wallcliffs Law Firm, Advocate in Sr.29809

+1cc to the Government Pleader in Sr.29897

+1cc to Mr.N.Umapathi, Advocate in Sr.29770

W.P.No.11294 of 2020

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rv(28/9/2020)

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