

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.14508 of 2020

and

W.M.P.Nos.17998 and 18000 of 2020

1. E.Arul Kumar  
2. K.Arul Selvan .. Petitioners  
Vs.

1. The State of Tamil nadu rep. by its  
Secretary to Government,  
Industries Department,  
Fort St. George,  
Chennai-600 008.
2. The Director of Geology and Mining,  
Thiruvika Industrial Estate,  
Guindy, Chennai-600 032.
3. The District Collector,  
Namakkal District,  
Namakkal.
4. The Assistant Director of Geology & Mining,  
O/o.District Collector,  
Namakkal.
5. The Joint Commissioner/Executive Officer,  
Arulmigu Meenakshi Sundareswar Temple,  
Madurai-625 001. .. Respondents

Prayer : Writ Petitions filed under Article 226 of the  
Constitution of India praying for a Writ of Mandamus directing  
the respondents 1 to 3 to cancel the permission granted in  
favour of the fifth respondent to quarry 2778 Cubic Meter of  
Dimensional Stone (Multi-Colour-Granite) for the period of one  
year in S.F.No.23 (Part) of Pattanam Village, Rasipuram Taluk,  
Namakkal District.

\* \* \*

For Petitioner :Mr.M.Muthappan

For Respondents: Mr.E.Manoharan,  
Special Government Pleader for RR1 to 4

Mr.K.Govindarajan for R5

## O R D E R

The petitioners seek a Writ of Mandamus directing the respondents 1 to 3 to cancel the permission granted in favour of the fifth respondent to quarry 2778 Cubic Meter of Dimensional Stone (Multi-Colour-Granite) for the period of one year in S.F.No.23 (Part) of Pattanam Village, Rasipuram Taluk, Namakkal District.

2. The first petitioner is owning agricultural lands in Survey F.Nos.17/1B, 22/1, 26/3A and 22/2 in total extent of 2.35.80 hectares in Pattanam Revenue Village, Rasipuram Taluk, Namakkal. He also has his residence in S.F.No.22/2. The second petitioner also owns agricultural lands comprised in S.F.Nos.24/1, 24/2, 25/1B, 25/2, 3, 4, 5, 26/1, 2B and 3B over an extent of 5.84.00 hectares in the same village. It is stated that the source of irrigation to the above said lands are from a water body called Chelemba Koundan Kuttai, which is in S.F.No.24/2 adjacent to S.F.No.23. Now the State Government has accorded permission for quarrying to fifth respondent in S.F.No.23 (Part), which is classified as Chelemba Koundan Kuttai as per the revenue records. The lease is for a period of one year granted as per Rule 3(2)(a) of the Tamil Nadu Minor Mineral Concession Rules, 1959 (in short, "the TNMMC Rules"). The objection of the petitioner is that the District Collector may grant permission for quarrying any minor mineral other than the minor mineral covered under Rules 8-A and 8-C only for a quantity not exceeding 2000 cubic feet, that is, the Collector is empowered to accord permission only for a minor mineral other than Granite. But the present permission is to quarry for Granite for more than 2000 cubic feet, which is against the TNMMC Rules. It is also stated that S.F.No.24/2 is belonging to the second petitioner and it is 10 to 15 meters from the said Chelemba Koundan Kuttai. In terms of Rule 36 of the TNMMC Rules, there must be at least 50 meters distance to be maintained from any waterbody. Further, there is a village site of Kallangulam Killaku Nadar Street situated within 150 meters from the quarrying site S.F.No.23. The house of the petitioners are also situated within 150 meters. Hence, the petitioners made representations to the officials on 25.07.2019 and 26.07.2019 respectively. As there was no response, the above writ petition came to be filed.

3. The third respondent - the District Collector has filed counter-affidavit resisting the contentions raised by the petitioners. The third respondent stated that the fifth respondent - the Joint Commissioner, Arulmighu Meenakshi Sundareswarar Temple, Madurai, had applied for grant of permission for quarrying of 1,00,000 cubic feet or 2778 cubic meter (CBM) of Dimensional stones in S.F.No.23 (Part) Part in an extent of 2.00.00 hectares of the Government Poramboke land and S.F.No.91/1 (1.05.0 hectares) of Paarai Poramboke in Pattanam Village, Rasipuram Taluk, for a period of one year or the actual period required for removal of permitted quantity

whichever is earlier under Rule 32(a) of the TNMMC Rules for the purpose of renovation of Veera Vasantharayar Mandapam, Arulmighu Meenakshi Sundareswarar Temple, Madurai. On receipt of the application, the District Collector vide Rc.No.111/Mines/2019, dated 25.02.2019 and 14.08.2019 through the Director of Geology and Mining/the second respondent vide File No.320/MM6/2019, dated 11.10.2019, had forwarded the same to the Government for issuance of the Government Order. Based on the recommendations of the second and third respondents, the Government has considered the quarry lease application and communicated the area recommended by the Director of Geology and Mining, as precise area and requested the applicant to furnish the approved Mining Plan as per sub-Rule (13) of Rule 19-A of the TNMMC Rules through the second respondent within a period of three months and also to produce the Environmental Clearance obtained from the competent authority. Accordingly, the second respondent vide letter in Rc.No.320/MM4/2019, dated 27.12.2019 had approved the mining plan and forwarded the copy of the approved mining plan to the fifth respondent. The fifth respondent also had enclosed a copy of the Environmental Clearance obtained from the State Level Environment Impact Assessment Authority (in short "SEIAA"). The environmental clearance has been approved by the SEIAA for quarrying of 1,00,000 Cubic feet or 2778 CBM of Dimensional stone in S.F.No.23 (Part) (2.00.00 hectares) of Government porambake land in Pattanam Village, Rasipuram Taluk, Namakkal District. The fifth respondent also requested the Government the issue orders for grant of quarry lease in the above area.

4. The first respondent also, in exercise of the powers conferred under Rule 3(2)(a) of the TNMMC Rules, passed G.O (3D)No.13, Industries (MMB.2) Department, dated 14.08.2020, granting permission to the fifth respondent for quarrying the above required quantity, i.e., 2778 CBM Dimensional Stones for a period of one year or the actual period required for the removal of permitted quantity whichever is earlier for the purpose renovation of Veera Vasantharayar Mandapam, Arulmighu Sundareswarar Temple, Madurai, subject to the conditions specified therein. As the permission was granted to the fifth respondent only as per the rules, the plea of the petitioners cannot be entertained and the first respondent prayed for dismissal of the writ petition.

5. The fifth respondent has also filed the counter-affidavit, which is the requisitioning body. The fifth respondent states that the Meenakshi Sundareswarar Temple is one of the Ancient Temples in India and the Veera Vasantharayar Mandapam, which is one the Eastern side of the Temple, got damaged as a result of the fire accident occurred on 02.02.2018. At the request and demand of the Devotees to restore the Mandapam to its original position, which has become necessary, the Secretary to the Government, Tourism, Culture and Endowments Department, vide G.O.Ms.No.28, dated 30.01.2020 granted permission for renovation of Veera

Vasantharayar Mandapam. Accordingly, the Temple administration had made a request to the third respondent for grant of permission quarry multicoloured Granite by considering the need and necessity. After getting the required clearance from various authorities including the SEIAA, which is a statutory body functioning under the Environment (Protection) Act, 1986, the Government had granted the permission for quarrying the multicoloured Granites in S.F.No.23 (Part), Pattanam Village, Rasipuram Taluk, Namakkal District, subject to the conditions mentioned therein. The decision to renovate fire damaged Veera Vasantharayar Mandapam was taken after a 12-Member Committee appointed by the Commissioner, HR & CE, which included the persons with Archaeological knowledge and a Professor of IIT-Madras, etc. The said Committee convened several meetings and decided to renovate the temple with the same identical stone sculpture method. Thus, the temple administration with the help of the Government started to identify suitable rock for renovation of the temple and rock samples were taken from various Districts, namely, Salem, Rasipuram, Tirunelveli, Namakkal, etc.. The samples were sent for structural testing for their compressive strength, flexural strength, water absorption, specific gravity and for porosity. The National Centre for Safety of Heritage Structures, a Department of IIT, Madras, was assigned with the work of identifying the proper stone suitable for the Temple work. Similarly, the HR & CE Department also verified the megascopic and petrographic analysis of the sample rocks suitable for the Temple work. It is only after the scientific analysis of the IIT, Madras, the stones, which are available at Pattanam, Rasipuram Taluk, were recommended. The nature of the rock located therein is best in quality and also matching with the colour and texture of the previous stones located in the damaged Mandapam. Therefore, it is only after the above reports of the Government and various Departments, the permission was granted for quarrying operations. The fifth respondent further stated that the quarrying operations are going to be conducted by using Diamond wire saw cutting technology, which means the quarrying does not involve blasting, and there is no scope for any damage to anyone in the nearby vicinity. According to the fifth respondent, the objections of the petitioners are ill-motivated and it is for personal gain. As the quarrying permission was granted after considering the recommendations of various authorities involved, the petitioners cannot have any grievance much less that it is not violation of the TNMMC Rules. When Rule 8(c) of the TNMMC Rules empowers the Government to grant quarrying lease in respect of Government organs, the petitioners have got no locus to challenge the same without any basis.

6. From the above, it is clear that the only issue that arises for determination is whether the grant of permission to quarry granted in favour of the fifth respondent is in accordance with the TNMMC Rules ?

7. The learned counsel for the petitioner submits that the District Collector has no power to grant permission under Rule 3(2)(a) of the TNMMC Rules for the Granite or any other minerals more than 2000 Cubic feet, whereas, in this case, the said authority granted permission for quarrying 2778 CBM of dimensional stones for a period of one year. The next objection is that the quarry land is in Chelemba Koundan Kuttai as per the revenue records, which is the main source of irrigation for the petitioners' land, as the distance between the water body and the quarry area is only 10 to 15 meters breaching the conditions of the required distance of 50 meters. The residence of the petitioners and the village site of Kallangulam Village Nadar Street is within 150 meters distance from the quarry site, which is once again contrary to the Rules. Finally, it is stated that the petitioners were not given opportunity of hearing to put forth their objections before the grant of the permission.

8. The learned Special Government Pleader invited the attention to the communication of the Principal Secretary/Commissioner of HR & CE in proceedings No.Na.Ka.45604/2018/M1, dated 09.01.2019 making a request to the second respondent expressing the requirement of the Granite, which would be approximately 70,000 Cubic feet. Considering approximately 30% wastage, 1,00,000 sq.ft. Granite were demanded. As per Section 23 of the HR & CE Act, the administration of all the Temples including specific endowments attached thereto and all religious endowments shall be subject to the general superintendence and control of the Commissioner. The said provisions also makes it clear that such superintendence and control of the Commissioner shall include the power to pass any orders which may be deemed necessary to ensure that such temples and endowments are properly administered and that their income is duly appropriated for the purpose for which they were founded or exist.

9. It is also pointed out by the learned Special Government Pleader and the learned counsel for the fifth respondent that based on the recommendations of the IIT-M, after testing quality of the stones at Pattanam Village, Rasipuram Taluk, it was selected. The District Collector forwarded the recommendations through the second respondent to the first respondent in his proceedings in Rc.No.111/Mines/2019, dated 14.08.2019. The District Collector has specifically stated in his proceedings in paragraph 5 that as per the report of the Sub Collector, Namakkal, Survey No.23 (Part), over an extent of 2.00.00 hectares of Pattanam Village of Rasipuram Taluk is classified as Government Poramboke as per village records. Further, the applied area is free from permanent structures such as Electrical line, Odai, Temple, Archaeological Structures and there are no approved habitations within a radial distance of 50 meters from the applied area. Further, there is no objection received from

the local public for grant of lease to the applied area in S.F.No.23(P) of Pattanam Village. The first respondent also stated that the Assistant Director (Mines) also recommended for quarrying permission. Thus, by accepting the recommendations of the Sub Collector and the Assistant Director of Geology and Mining, a proposal was forwarded to the second respondent - the Director of Geology and Mining, recommending the grant of permission to the fifth respondent for quarrying 1,00,000 Cubit feet / 2778 CBM of dimensional stones in the applied area bearing S.F.No.23 (Part) over an extent of 2.00.00 hectares in addition to S.F.No.91/1 of the Government Parai Poramboke in the same Pattanam Village for the period of one year. Subsequent to the same, the grant of permission was granted vide G.O.(3D)No.13, Industries (MMB.2) Department, dated 14.08.2020.

10. It is further pointed out that S.F.No.23(P) of Pattanam Village has been classified as Chelemba Koundan Kuttai in A Register of the village, but in the FMB there is no such water body as Chelemba Koundan Kuttai. Further, out of the total extent of 9.15.5 hectares, a small waterbody marked as Nanda Kadu Kuttai is marked in the South Western corner of area, from which the leased out area is situated at a distance of about 200 meters. Therefore, the allegation of the petitioners that they have been using the said Kuttai as source of irrigation is false.

11. The allegation of the petitioners that the District Collector did not have power under Rule 3(2)(a) of the TNMMC Rules to issue permission for 1,00,000 Cubic feet for the purpose of quarrying, when Rules only empowers the Collector to grant quarrying permit not exceeding 2000 Cubit feet to any person cannot be countenanced in the instant case, as the permission to quarry 2778 CBM Dimensional stones for the renovation of Veera Vasantharayar Mandapam has not been granted by the District Collector, but by the first respondent, which is the Government vide G.O.(3D)No.13, dated 14.08.2020. The SEIAA, Chennai, also has granted necessary environmental clearance on 18.05.2020.

12. The learned Special Government Pleader also pointed out that the first petitioner's father one Elaiyappan had obtained quarry license between 2007 and 2012 in S.F.No.22/1 (Part) in Pattanam Village and the quarry was abandoned as on date. When the one of the petitioners family themselves was quarrying in the subject land, it is not fair on the part of the petitioners to approach this Court without divulging the said truth and there is no public interest involved in their objections.

13. The learned Special Government Pleader further pointed out that the quarry permission has been granted only for the purpose of public utility and not for any commercial reasons.

14. Rule 8-C provides for quarrying of granite granted by the State Government and granting of lease to a State Government Company or Corporation. Rule 8-C(1) empowers the State Government themselves to engage in quarrying of Granite or grant or renew lease for quarrying granite by a State Government Company or Corporation owned or controlled by the State Government in respect of areas where the existence of granite has been established. In this case also, the fifth respondent, which is the public authority, namely, the Joint Commissioner, HR & CE/Executive Officer of the Temple has applied for quarrying permit with the District Collector, which was forwarded to the Government and after verifying the compliance of the mandatory requirements, the first respondent had issued the quarrying permit to quarry the Dimensional stones for the temple renovation.

15. Rule 36 of the TNMMC Rules enlists the general restrictions in respect of quarrying operations. The Government Order in G.O.(3D)No.13, dated 14.08.2020, under which, the grant of permission was granted to the fifth respondent for quarrying has also imposed the conditions and also special conditions for the purpose of quarrying in adherence to Rule 36 and about 18 conditions are imposed therein, which would themselves take care of the objections that have been raised by the petitioners and also the restrictions mentioned in Rule 36.

16. Excepting the petitioners herein none of the villagers of the Pattanam had expressed any objections for the grant of quarrying permission to quarry the dimensional stones. Admittedly, the lease is not for a commercial purpose and it is solely for the purpose of renovation of the temple, which is of historical importance and has a heritage value. When the grant of permission is for a bona fide public purpose and the same was issued by the first respondent, after satisfying the compliance of the rules, the petitioners have filed the instant writ petition on baseless grounds, just to delay the entire process.

17. In view of the above discussion, there is no merit in the case of the petitioners and there is no bona fide in their contentions. Hence, this writ petition is liable to be dismissed and accordingly, the same is dismissed. However, there shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

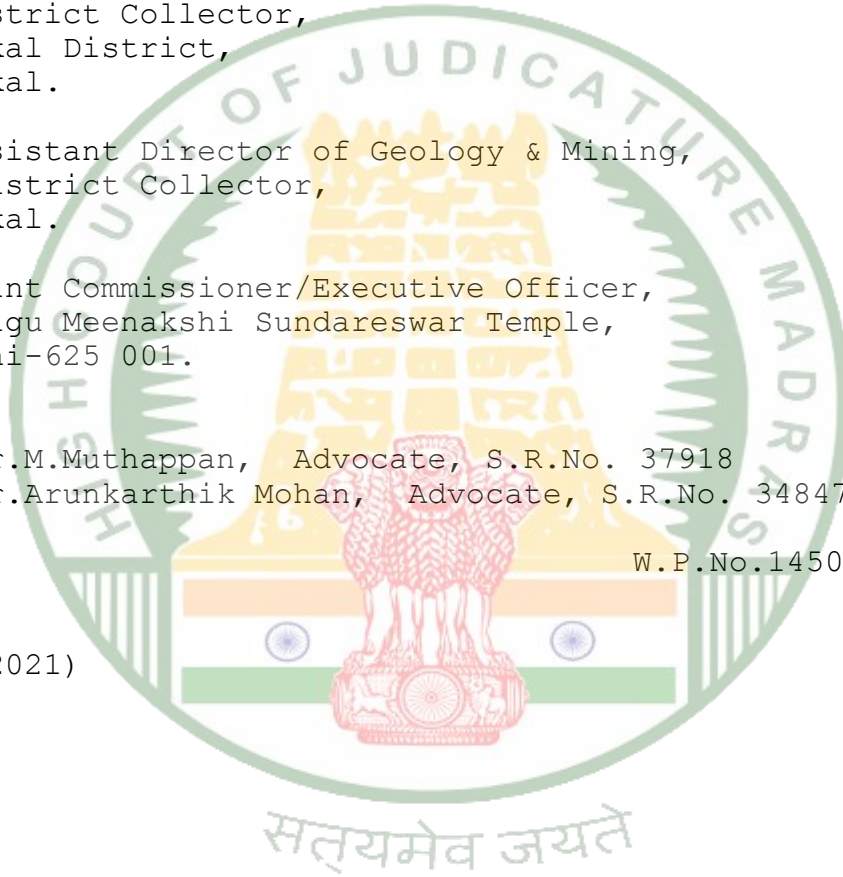
1. The Principal Secretary,  
Industries Department,  
Government of Tamil nadu,  
Fort St. George,  
Chennai-600 008.
2. The Director of Geology and Mining,  
Thiruvika Industrial Estate,  
Guindy, Chennai-600 032.
3. The District Collector,  
Namakkal District,  
Namakkal.
4. The Assistant Director of Geology & Mining,  
O/o.District Collector,  
Namakkal.
5. The Joint Commissioner/Executive Officer,  
Arulmigu Meenakshi Sundareswar Temple,  
Madurai-625 001.

+1cc to Mr.M.Muthappan, Advocate, S.R.No. 37918

+1cc to Mr.Arunkarthik Mohan, Advocate, S.R.No. 34847

W.P.No.14508 of 2020

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