



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.8135 of 2020 and
WMP (MD) No.7549 of 2020

T.Leelavathi

... Petitioner

Vs

1.The District Collector
Tuticorin,
Tuticorin District.

2.The Sub Division Magistrate,
and Sub Collector,
Thoothukudi.

3.The Assistant Director of Mines,
O/o District Collector,
Thoothukudi District,
Thoothukudi.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of 1st respondent in Rc.No.G.M.1/137/2019 dated 05.05.2020 and quash the same and consequently direct the 1 to 3 respondents to permit the petitioner to remove the copper slag available in petitioner's patta land comprised in S.No.336/2,336/3, Kumaragiri Village, Tuticorin Taluk and District.

For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.M.Rajarajan
Additional Government Pleader

O R D E R

Heard the learned counsel appearing for the Writ Petitioner and the learned Additional Government Pleader appearing for the respondents.

2.The petitioner is the owner of the land comprised in S.No.336/2 and 336/3 in Kumaragiri Village, Tuticorin Taluk. On the

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petitioner's patta land, industrial waste generated from Sterlite factory was dumped. This was construed an act of nuisance. It is seen from the order passed in Rc.No.G.M.1/137/2019 dated 05.05.2020, by the Executive Magistrate the petitioner was levied with penalty of Rs.25,000/-. The petitioner's counsel states that Ramco Cement have agreed to purchase the said industrial waste. He also would point out that the Pollution Control Board has clarified that the industrial waste can be used for road laying purpose and for consumption by cement factories. When the petitioner applied to the first respondent, the first respondent denied permission. The first respondent referred to the Writ Petition filed by Sterlite Industries before the Honourable Division Bench and declined to grant permission. This rejection order dated 05.05.2020 is put to challenge in this Writ Petition.

3.The learned Additional Government Pleader appearing for the respondents reiterated the reasons set out in the impugned order.

4.I carefully considered the rival contentions and went through the materials on record. The first ground alleged by the respondents is that the petitioner has not registered herself as a dealer under the Tamilnadu Prevention of Illegal Mining Transportation and Storage of Minerals and Mineral Dealers Rules' 2011. Without such valid licence, the petitioner cannot seek permission to remove the industrial waste from the petition mentioned land. This reason is incorrect. The petitioner is not dealing in any mineral as such. She only wants to remove the copper industrial waste dumped in her patta land. Therefore, the aforesaid 2011 Rules will not be applicable to the petitioner herein. The first respondent need not feel discouraged by the pendency of the litigation filed by Sterlite Industries. The case on hand has nothing to do with it.

5.As rightly pointed out by the learned counsel appearing for the writ petitioner, the Executive Magistrate directed the petitioner to remove the industrial waste and passed a Statutory order under Section 133 of Cr.P.C and the petitioner only wants to comply with the same. The respondents are not justified in raising any obstruction. I find considerable force in the contention that having directed the petitioner to remove the industrial waste, the respondents cannot now prevent the petitioner from complying with the said direction. Only if the petitioner fails to comply with the direction, the petitioner can be faulted.

6.In view of the above, the impugned order is quashed. The respondents are restrained from preventing the petitioner from removing the copper slag dumped on the petitioner's land and transporting it to the factory premises of Ramco Cements.



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7. On the above terms, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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and Sub Collector,
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AP (07/09/2020) 3P 4C