



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.8733 of 2020

and

W.M.P. (MD)No.8037 of 2020

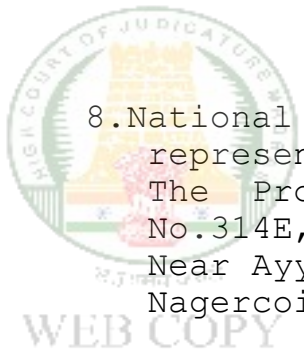
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Arul Selvam

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
represented by its
Chief Secretary,
St.George Fort,
Chennai-600 009.
- 2.The Commissioner,
Department of Geology and Mining,
Government of Tamil Nadu,
Guindy, Chennai-600 003.
- 3.The District Collector,
Tirunelveli District,
Tirunelveli.
- 4.The District Collector,
Kanyakumari District,
At Nagercoil.
- 5.The Assistant Director,
Department of Geology and Mining,
Collectorate, Kanyakumari District.
- 6.The Assistant Director,
Department of Geology and Mining,
Collectorate,
Kanyakumari District.
- 7.Larsen & Toubro Limited,
represented by
Cluster Head,
Villukurichi-Kanyakumari Road Project,
Loyola Institute of Technology and Science,
Loyola Nagar,
Thovalai-Rajavur Road,
Nagercoil-629 302, Kanyakumari District.



8.National Highways Authority of India,
represented by
The Project Director,
No.314E, K.P.Road,
Near Ayyappan Kovil,
Nagercoil-629 003, Kanyakumari District.

... Respondents

***[Cause Title is amended in respect of R.7 and R.8
vide order of this Court, dated 06.08.2020, passed in
W.P (MD)No.8733 of 2020]***

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 6 to take appropriate action for the illegal mining in "Piranthan Laks" and further restrain the respondents 7 and 8, his men or agent or any person from illegally mining of the "Piranthan Lake" and situated in S.Nos.817, Levingipuram Village, Radhapuram Taluk, Tirunelveli District and in S.No.778, Anjugramam, Kanyakumari District or any other nearby place around "Piranthan Lake".

For Petitioner : Mr.C.Susi Kumar
For Respondents : Mr.Aayiram K.Selvakumar
Additional Government Pleader for R.1 to R.6
: Mr.Jayesh Doliya for R.7
: Mr.Su.Srinivasan for R.8

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J.)

This Writ Petition styled as a Public Interest Litigation is filed by a resident of Samathanapuram, Palayamkottai, Tirunelveli District and he would aver, among other things, that there is a tank known as "Pranthan Lake" situated at Survey No.817 of Levingipuram Village, Radhapuram Taluk, Tirunelveli District, having a total extent of 7.87.0 Hectares and the southern sluice points of the said tank is located at Survey No.778 of Anjugramam, Kanyakumari District.

2. The petitioner would further aver that the respondents 7 and 8 had managed to get permission from the fourth respondent for mining the sand for the purpose of using it for laying the Four Lane National Highways Road.

3. The learned Counsel appearing for the petitioner would submit that before according necessary permission, the concerned official respondents failed to take into consideration the ecology and environmental aspects. He has also drawn the attention of this Court to the photographs and would submit that the respondents 7 and 8 are allowed to mine the sand for the alleged purpose of laying Four Lane National Highways Road. It will spell doom for a disaster and in all probability, the entire water body may become a dry tank



in the course of time.

4. It is the further submission of the learned Counsel appearing for the petitioner that in this regard, the petitioner has also submitted a detailed representation, dated 10.07.2020 along with supporting documents through e-mail to the official respondents and despite receipt and acknowledgment, nothing is moving forward and the respondents 7 and 8 under the garb of licence/permission, continue to exploit the natural resources and hence, prays for appropriate orders.

5. Mr.Aayiram K.Selvakumar, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 6, Mr.Jayesh Doliya, learned Counsel accepts notice on behalf of the seventh respondent and Mr.Su.Seenivasan, learned Counsel accepts notice on behalf of the eighth respondent.

6. It is represented by the learned Counsel appearing for the respondents 7 and 8 that some individual names have been arrayed for the reasons best known to the petitioner, instead the name of the Company and the National Highways Authority of India may be shown.

7. This Court, after hearing the learned Counsel appearing for the petitioner, is of the view that the cause title is to be amended in respect of the respondents 7 and 8 as follows:

7 th Respondent	Larsen & Toubro Limited, represented by its Cluster Head, Villukurichi-Kanyakumari Road Project, Loyola Institute of Technology and Science, Loyola Nagar, Thovalai-Rajavur Road, Nagercoil-629 302, Kanyakumari District
8 th Respondent	National Highways Authority of India, represented by The Project Director, No.314E, K.P.Road, Near Ayyappan Kovil, Nagercoil-629 003, Kanyakumari District.

8. The learned Counsel appearing for the seventh respondent has invited the attention of this Court to the order dated 24.07.2020, made in W.P.(MD)No.7954 of 2020 and would submit that for the similar prayer sought for in the above writ petition, this Court directs the concerned official respondents to consider and dispose of the petitioner's representation with a further



periodical and surprise inspection as to the compliance of the conditions and file a status report.

9. The learned Counsel, on instructions, would further submit that in the absence of specific challenge to the necessary permission/licence granted, the Writ of Mandamus as sought for by the petitioner is *per se* not maintainable and prays for dismissal of the writ petition.

10. This Court has considered the rival submissions and perused the materials placed on record.

11. It *prima facie* appears that the licence/permission has been granted for public purpose to lay Four Lane road to augment the infrastructure of the country. This Court vide order dated 24.07.2020 made in W.P.(MD)No.7954 of 2020 has taken into consideration the similar plea expressed by the petitioner therein and issued appropriate direction while disposing of the writ petition.

12. Therefore, this Court, without going into the merits of the claim as projected by the petitioner either in his representation or in this writ petition, directs the respondents 3, 4 and 6 to consider and dispose of the representation of the petitioner dated 10.07.2020, after putting on notice the respondents 7 and 8 and pass appropriate orders in accordance with law within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the respondents 7 and 8. The respondents 3 to 6 shall also cause regular or surprise inspection in respect of the area in which permission has been granted to mine the sand and file a status report along with supporting documents and photographs.

13. This writ petition stands disposed of accordingly. No costs. Consequently, the connected writ miscellaneous petition is closed.

14. Call on 03.12.2020 for filing status report, along with W.P(MD)No.7954 of 2020.

Sd/-

Deputy Registrar (LA&MC)

// 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

- 1.The Chief Secretary,
State of Tamil Nadu,
St.George Fort,
Chennai-600 009.
- 2.The Commissioner,
Department of Geology and Mining,
Government of Tamil Nadu,
Guindy, Chennai-600 003.
- 3.The District Collector,
Tirunelveli District,
Tirunelveli.
- 4.The District Collector,
Kanyakumari District,
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- 5.The Assistant Director,
Department of Geology and Mining,
Collectorate, Kanyakumari District.
- 6.The Assistant Director,
Department of Geology and Mining,
Collectorate,
Kanyakumari District.

+1 CC to M/s.Government Pleader (SR-13906[F] dated 12/08/2020)

W.P. (MD)No.8733 of 2020
and
W.M.P. (MD)No.8037 of 2020
06.08.2020

KB(07.09.2020) 5P 8C