



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P(MD)No. 10708 of 2020

and

W.M.P. (MD) .No.9431 of 2020

WEB COPY

- 1.K.Ranjagam
- 2.S.S.Ramasamy
- 3.B.Namakshivayam
- 4.S.P.Vishwanathan
- 5.K.R.Kanagaraaj
- 6.K.R.Vellaichamy
- 7.K.R.Shanmuganathan

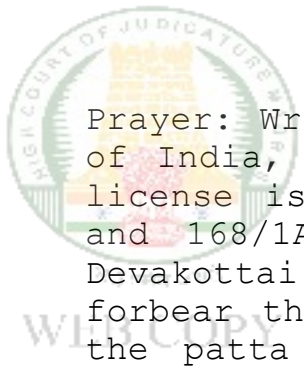
... Petitioners

Vs.

- 1.The Director of Geology and Mining
O/o. The Director of Geology and Mining,
Alandur Road,
Guindy Industrial Estate,
Guindy, Chennai-32.
- 2.The Commissioner,
Department of Geology and Mining,
Thiru Vi.Ka.Industrial Estate,
Guindy,
Chennai-32.
- 3.The Assistant Director of Geology and Mining
O/o. The Assistant Director of Geology and Mining,
Collectorate Campus,
Sivagangai District.
- 4.The District Collector,
Sivagangai District,
Sivagangai.
- 5.The Superintendent of Police,
Sivagangai District,
Sivagangai.
- 6.The Public Works Department,
rep. By its Executive Engineer,
Devakottai Taluk,
Sivagangai District.

- 7.K.Karthikeyan

... Respondents



Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration to declare the license issued to respondent No.7 for mining sand in S.No.170/1 and 168/1A, 1681B of Kallangudi Village, Periyakarai Post, Devakottai Taluk, Sivagangai District as illegal and consequently forbear the indiscriminate sand mining by the respondent No.7 in the patta lands in S.No.170/1 and 168/1A, 1681B of Kallangudi Village, Periyakarai Post, Devakottai Taluk, Sivagangai District within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.K.P.Krishnadoss

Special Govt. Pleader for RR-1 to 6

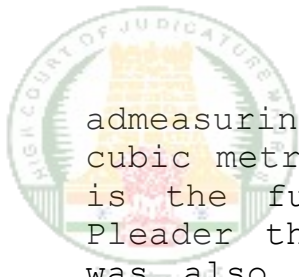
ORDER

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

The writ petition is styled as a Public Interest Litigation, filed by a resident of Kallangudi Village, Periyakarai Post, Devakottai Taluk, Sivagangai District as well as others and according to him, the private respondent is resorting to indiscriminate mining of the sand and earth in the patta lands in S.Nos.170/1 and 168/1A, 1681B of Kallangudi Village, Periyakarai Post, Devakottai Taluk, Sivagangai District other than the permissible extent. Further, according to him, for transportation of sand, daily, 50 lorries are being used and that apart, there are illegal mining of the sand/earth.

2. The learned counsel appearing for the petitioner would submit that though this Court has issued a prohibitory order, prohibiting the quarrying of Savudu sand and Ubari soil and its transportation, vide interim order dated 28.08.2019 in **W.P. (MD) . No.20903 of 2016 (P.Nagendiran Vs. District Collector and Others)**, the illegal quarrying of the sand under the garb of "Ubari sand" and its transportation is going on, that too for commercial exploitation and the representations submitted in this regard dated 01.07.2020, 06.07.2020 and 03.08.2020 had failed to evoke any kind of response. Therefore, he is constrained to file this writ petition.

3. Mr.K.P.Krishnadoss, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 to 6 has invited the attention of this Court to the proceedings of the fourth respondent, dated 15.06.2020 in Na.Ka.No.M.2/144/2020 and would submit that the land was owned by the 7th respondent and the fourth respondent granted permission to one Rathnavel, S/o.Soundarajan to take the "Ubari gravel" sand and after causing inspection, the



admeasuring to an extent of 0.70.0 hectares and also to take 6300 cubic metres of the said sand, subject to certain conditions. It is the further submission of the learned Special Government Pleader that in the light of the complaint received, inspection was also caused by the Kallangudi Group Village Administrative Officer, who found that the conditions of permission/licence have been strictly complied with and as such, the allegations levelled by the petitioner is wholly unfounded and prays for dismissal of the writ petition.

4. This Court has carefully considered the rival submissions and also perused the materials placed on record.

5. The above cited proceedings of the fourth respondent dated 15.06.2020 did not disclose the provision under which, permission was granted. Rule 38-A of the Tamil Nadu Minor Mineral Concession Rules, 1959 speaks about the quarrying of the sand by the State Government and the lease granted in respect of ryotwari land. The vires of the said Rule was put to challenge in the decision reported in **[2006] 4 SCC 517 (The State of Tamil Nadu and another Vs P.Krishnamurthy and others)**, wherein the Hon'ble Apex Court upheld the validity of the said Rule, insofar as vesting of exclusive right of quarrying sand by the State Government. However, it has held that the responsible application of the same is not sustainable.

6. For the sake of arguments, if the third respondent is having power to grant licence/permission, it is obligatory on the part of the said official to cause verification of the land, after clearing the sand/earth from the same, for which such a permission was accorded, is utilised for agricultural purpose. In the case on hand, permission was accorded only on the ground that after taking the excess sand, the land can be used for agricultural purpose. The reports submitted by the revenue officials did not throw much light as to the said aspect.

7. In the considered opinion of this Court, before granting permission for clearance of Ubari earth or normal earth, the third respondent shall cause verification as to the nature of the sand/earth, which is said to be taken under the garb of making the land fit for agricultural operation and it *prima facie* appears that the said exercise has not been carried out. The report of the Special Revenue Inspector (Mineral), dated 22.05.2020, which has also been referred in the proceedings of the fourth respondent, dated 15.06.2020 also did not disclose as to the nature of the sand/earth sought to be removed. It appears that such kind of permission is routinely granted and at least, in future, the fourth respondent, before according such permission/licence, either himself or through Subordinate



Officials shall also cause regular as well as surprise inspection to see whether any illegal extraction of the sand other than the permissible depth and quantity is taken and whether the neighbouring lands are being used for the purpose of illegal extraction of sand mining and shall take immediate and necessary action, including the acts of criminal prosecution, departmental action against the erring officials and seizure of vehicles, which are used for transportation and exploitation of the illegal extraction of sand/earth.

8. In the light of the reports submitted by the jurisdictional revenue officials, which are also taken on record, this Court is of the view that no further orders are necessary in this writ petition. However, if any infractions or violations are noted, a call would be taken in this regard.

9. The writ petition is closed, subject to the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

VS

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 Director of Geology and Mining
O/o. The Director of Geology and Mining,
Alandur Road,
Guindy Industrial Estate,
Guindy, Chennai-32.

2.The Commissioner,
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Thiru Vi.Ka.Industrial Estate,
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3.The Assistant Director of Geology and Mining
O/o. The Assistant Director of Geology and Mining,
Collectorate Campus,
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4.The District Collector,
Sivagangai District,
Sivagangai.

5.The Superintendent of Police,
Sivagangai District,
Sivagangai.

6.The Executive Engineer,
Public Works Department,
Devakottai Taluk,
Sivagangai District.

+1 CC to Mr.T. LAJAPATHI ROY, Advocate (SR-15880[F] dated
03/09/2020)

+1 CC to SGP (SR-15815[F] dated 03/09/2020)

W. P (MD) No. 10708 of 2020
02.09.2020

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