



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.09.2020
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P.(MD)No.12438 of 2020
and
W.M.P.(MD)No.10646 & 10649

S.Shanmuga Vadivel

... Petitioner

Vs.

1.The District Collector
Sivagangai District,
Sivagangai.

2.The Thasildar
Thiruppathur Taluk,
Sivagangai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to remove the lock and seal affixed on the petitioner's premises situated in the Survey No. 111/1 in Thenmapattu Group Village.

For Petitioner : Mr.Veerakathiravan,
Senior counsel
for Mr.S.Ramsundar Vijayaraj

For 1st Respondent : Mr.Sri Charan Rangarajan
Additional Advocate General,
assisted by Mr.M.Rajarajan,
Additional Government Pleader

O R D E R

Heard Mr.Veerakathiravan, learned Senior counsel appearing for the writ petitioner, Mr.Sri Charan Rangarajan, learned Additional Advocate General, assisted by Mr.M.Rajarajan, learned Additional Government Pleader advocate appearing for the respondents.

2.The writ petitioner owns 15 acres of land in Survey No.111/1 in Thenmapattu Village in Sivagangai District. The stand of the respondents is that in the said Survey number, the



Authorities during a surprise inspection found a huge load of sand and savudu. Therefore, the entire premises has been locked and sealed. In order to get the premises unsealed, the writ petition has been filed.

3.The learned Senior counsel would submit that the petitioner's possession of the said load of sand / savudu is not illegal and that they have in any event moved the District Collector, Sivagangai, for appropriate relief. The enquiry is said to be pending.

4.The question is whether in the meanwhile the entire 15 acres of land belonging to the petitioner should be kept under lock and seal.

5.The stand of the respondents is that as per Rule 3(2) of Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of Minerals and Mineral Dealers Rules, 2011, "No person other than the mineral dealer shall store or cause to be stored any mineral at any place for the purposes of sale or consumption."

6.The learned Additional Advocate General would contend that the writ petitioner has not placed any material to show that he is a dealer. That apart even the mineral dealer can store the mineral only at the notified place. Anyplace cannot be used as a stockyard for storing the mineral.

7.The learned Additional Advocate General would further contend that if such illegal storage comes to the knowledge of the Authorities, under Rule 8(2), the Authorities can seize the said Mineral. The power of seizure is not in doubt or under challenge. What the petitioner challenges is whether the entire 15 acres of land can be put under lock and seal.

8. I am of the view that the response of the second respondent appears to be rather disproportionate. In the land in question even according to the respondents, there are about 12 numbers of cattle. There are also some 20 chicken being reared. Therefore, the respondents ought to segregate the place where the alleged contraband has been stored, the petitioner states that he will bear the cost of such segregation. In other-words, the site on which the alleged contraband said to have been stored will be duly fenced and barricaded at the cost of the petitioner. The petitioner also gives an undertaking that he will instal a CCTC, so that, the respondents can take Videograph as well as photograph of the entire place. Once the segregation is done, the remaining part can very well be used by the petitioner as before. The petitioner states that in the presence of the Assistant Director, (Mines and Minerals), Sivagangai, or any other Authorised Official, the work of barricading and segregating the site in question from the remaining



9. Subject to this arrangement mentioned above, the respondents are directed to remove the lock and seal fixed on the premises in question. Of-course, even this arrangement will abide by the orders that may be passed by the first respondent in the representation already lodged by the petitioner herein. The cost of segregation will be borne only by the petitioner herein. The Concerned Officials can issue appropriate advisory in this regard.

10. This Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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 District Collector
Sivagangai District,
Sivagangai.

2. The Thasildar
Thiruppathur Taluk,
Sivagangai District.

+1 CC to M/s. Special Govt. Pleader (SR-18384[F] dated 29/09/2020)

+1 CC to M/s. VEERA ASSOCIATES, Advocate (SR-18604[F] dated 30/09/2020)

W. P (MD) No. 12438 of 2020
28.09.2020

SDS (06.10.2020) 3P-5C