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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.12649 of 2020

and

W.M.P(MD)Nos.10776 to 10778 of 2020

A.Natarajan

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Deputy Director of Mines and Geology,
Dindigul District,
Dindigul.

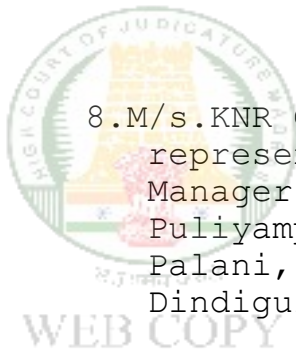
3.The Tahsildar,
Ottanchathram Taluk,
Dindigul District.

4.The Revenue Inspector,
Manjanayakanpatti Village,
Ottanchathram Taluk,
Dindigul District.

5.The Commissioner,
Theppampatti Panchayat Union,
Theppampatti,
Ottanchathram Taluk,
Dindigul District.

6.Manjanayakanpatti Panchayat,
represented by its
President,
Manjanayakanpatti Village,
Ottanchanthram Taluk,
Dindigul District.

7.The State,
represented by
The Inspector of Police,
Chatrapatti Police Station,
Dindigul District,
Dindigul.



8.M/s.KNR Constructions,
represented by its
Manager/Authorised Officer,
Puliyampatti Village,
Palani,
Dindigul District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order made in Na.Ka.No.177/2020 (Mines), dated 01.09.2020 passed by the first respondent and quash the same and consequently, issue a direction to the respondents restraining from granting permission, lease and licence for any quarry activity in the water body, namely, Sengulam tank in S.No.214, measuring an extent of 38.74.5 Hectares, which is situated in Kalipatti Village, Manjanayakkanpatti Village Panchayat, Dindigul District.

For Petitioner : Mr.S.Anwar Sameem

For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader for R.1 to R.4 & R.7

Mr.N.Mohan for R.8

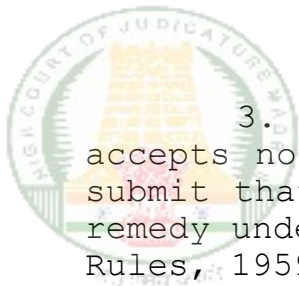
* * * * *

ORDER

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

The petitioner claims to be a resident of Kalipatti, Manjanayakkanpatti Village, Ottanchatram Taluk, Dindigul District and he is in possession of agricultural lands in Kalipatti and according to the petitioner, the agriculturists as well as the residents of 10 villages are depending upon Sengulam tank for groundwater and agricultural operations and became aware of the fact that the first respondent, vide impugned proceedings, dated 01.09.2020, vide Na.Ka.No.177/2020 (Mines), granted permission for licence to quarry the sand for the alleged purpose of National Highways between Ottanchatram and Madathukulam and challenging the legality of the said proceedings, filed the present writ petition.

2. Heard the submissions of the learned Counsel for the petitioner, who has drawn the attention of this Court to the photographs made available from pages 21 to 25 of the typed set of papers and would submit that under the garb of removing the earth for laying National Highways, quarrying is being done beyond the permissible depth/limit and in the event of rain, there will not be any water flow also and therefore, the petitioner is constrained to file this writ petition purely in public interest.



3. Mr.K.P.Krishnadoss, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 4 and 7 and would submit that since the petitioner is having an effective alternative remedy under Section 36-C of the Tamil Nadu Minor Mineral Concession Rules, 1959, this writ petition, per se, is not maintainable.

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4. Mr.N.Mohan, learned Counsel accepts notice on behalf of the eighth respondent and would submit that the present writ petition is nothing but a private interest litigation or a paisa interest litigation and under the garb of filing this writ petition, demanded some money for not prosecuting the writ petition and prays for the dismissal of this writ petition with exemplary costs.

5. This Court has carefully considered the rival submissions and perused the materials available on record.

6. A perusal of the photographs which are made available from pages 21 to 25 of the typed set of papers would disclose that the so-called water body is full of exotic growths of *prosopis juliflora* (seemaikaruvelam trees) and if the petitioner and the agriculturists of 10 villages which are located in and around the said water body, are really interested, they would have taken steps to remove the *prosopis juliflora* (seemaikaruvelam trees) and for proper maintenance of the said water body and admittedly, either the petitioner or the residents of the said villages have done nothing.

7. A perusal of the impugned proceedings issued by the first respondent in favour of the eighth respondent, would prima facie disclose that it is for a public purpose for laying National Highways between Ottanchatram and Madathukulam.

8. It is relevant to extract hereunder Rule 36-C of the Tamil Nadu Minor Mineral Concession Rules, 1959:

"36-C. Appeal and second Appeal:- (1) Any person aggrieved by any order of the Joint Director, Deputy Director or Assistant Director (Geology and Mining) or any authority subordinate to him in the district office of the Department of Geology and Mining or Revenue Divisional Officer or Tahsildar or Deputy Tahsildar in the Revenue Department or Commissioner of Municipalities and Corporations, Executive Officers of Town Panchayats and Townships and Presidents of Village Panchayats made in exercise of the powers conferred on him by these rules or in exercise of any of the powers delegated to him under the provisions of these rules may within 30 days from the date of receipt of the order, prefer appeal to the District Collector concerned against such order. In case the aggrieved person is not satisfied with the decision of the



District Collector he may prefer a second appeal to the Director of Geology and Mining within 30 days from the date of receipt of the order of the District Collector.

(2) Any person aggrieved by any order made by the District Collector in exercise of the powers conferred on him by these rules, except on appeals under sub-rule (1) may, within 30 days from the date of communication of the order to him, appeal to the Director of Geology and Mining against such order. In case, the aggrieved person is not satisfied with the decision of the Director of Geology and Mining, he may prefer a second appeal to the State Government within 30 days from the date of receipt of the order of the Director of Geology and Mining.

(3) Any person aggrieved by any order made by the Director of Geology and Mining in exercise of the powers conferred on him by these rules, may, within 30 days from the date of receipt of the order, appeal to the State Government."

9. This Court, taking into consideration the above facts and circumstances of the case and without going into the merits of the claim projected by the petitioner as well as the eighth respondent, is of the considered view that in the light of the said effective alternative remedy available, this writ petition is not maintainable.

10. In the result, this writ petition is dismissed as not maintainable. No costs. Consequently, the connected writ miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

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Sub Assistant Registrar(CS)

RSB

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,
Dindigul District,
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2.The Deputy Director of Mines and Geology,
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Ottanchathram Taluk,
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5.The Inspector of Police,
Chatrapatti Police Station,
Dindigul District,
Dindigul.

+1 CC to SGP (SR-18385[F] dated 29/09/2020)

+1 CC to M/s.N. MOHAN, Advocate (SR-18444[F] dated 30/09/2020)

+1 CC to M/s.T. ANTONY ARUL RAJ, Advocate (SR-18581[F] dated
30/09/2020)

W.P. (MD)No.12649 of 2020

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NR (06.10.2020) 5P 9C