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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Writ Petition No.11403 of 2021

Subam Bricks
represented by its Proprietor
Mr. K. Pandian
S.F. Nos. 565/2, Door No.7/491
Raghavendra Nagar, Kanuvai
Coimbatore North,
Coimbatore - 108

..Petitioner

Versus

1. The District Collector
Coimbatore District
Coimbatore - 641 018
2. The Assistant Director
Department of Geology & Mining
Coimbatore - 641 018
3. The District Environmental Engineer
Tamil Nadu Pollution Control Board
Coimbatore North,
Coimbatore
4. The Tahsildar
Coimbatore North Taluk
Coimbatore
5. The Executive Engineer (Distribution)
TANGEDCO, K. Vadamadurai
Coimbatore District

..Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the notice of the Respondent No.2to4 dated 19.03.2021 in connection with the notice for closure of the Bricklin Chamber Unit at SF No.565/2, Anaikatti Main Road, Anuvai Koil Pirivu, Chinnathadagam, Coimbatore North-641 108, of the petitioner dated 19.03.2021 and quash the same.



For Petitioner : Mr. M. Jayachandran

For Respondents : Mr. Stalin Abhimanyu
Government Counsel

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ORDER

The challenge in this writ petition is to the notice dated 19.03.2021 issued by the respondent 2 to 4 calling upon the petitioner to vacate the brick klin chambers run by him with immediate effect on the ground that he is running such brick klin chamber without any licence or permission from the authorities concerned.

2. The petitioner has filed this writ petition mainly on the ground that except the District Collector, the other respondents are not vested with the power to issue notice for vacating the brick klin. It is his contention that it is only the District Collector, who is competent to pass any such order after following the mandatory procedures contemplated under the Mines and Minerals (Development and Regulation) Act, 1957 and the Tamil Nadu Minor Mineral Concession Rules, 1959. It is also the contention of the petitioner that the survey numbers of the lands, where the brick-klin has been erected by the petitioner, has not been brought within the purview of the Elephant Corridor. Therefore, it is vehemently contended that the impugned notice has been issued without any authority of law and therefore, it is liable to be set aside.

3. The learned counsel appearing for the petitioner brought to the notice of this Court that identical writ petitions have been filed before this Court and by a common order dated 30.04.2021 passed in WP Nos. 9606 of 2021 etc., batch this Court passed the following order:-

"22. For the foregoing reasons, without delving much upon the merits and demerits of the other submissions of the learned counsel on either side, excepting incorporating the same hereinabove, this Court is of the opinion that the impugned orders need interference by this Court. Accordingly, the impugned orders are set aside and the District Collector, Coimbatore, who is the competent authority under the statute, shall pass appropriate orders with respect to all these petitioners after affording an opportunity of hearing within a period of four weeks from the date of receipt of a copy of this order. The impugned orders would be treated as notices to the petitioners for appearing before the District Collector. No separate notice in this regard will be issued to the



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petitioners. The petitioners are at liberty to submit all relevant documents in support of their claim. It is made clear that no further extension of time would be granted to the District Collector to complete the above exercise of passing the appropriate orders qua these petitioners. The District Collector, Coimbatore, shall proceed with the further process based on the web copy of this order, without waiting for the certified copy.

23. It is open to the respondents to take any action against the brick klins, including the petitioners, if it is found that the same has been operated without any license/clearance in the manner known to law. This order would not preclude the authorities in exercising their powers in accordance with law. It is also made clear that the owners of the brick klins can run the show, if they possess a valid licence and other documents to do so.

24. These writ petitions are ordered to the extent indicated above. However, there shall be no order as to costs. Consequently, WMPN os. 11653 and 11786 of 2021 are dismissed and the other connected writ miscellaneous petitions are closed.

25. Post these writ petitions on 07.06.2021 'for reporting compliance.'

4. Subsequently, when the aforesaid WP Nos. 9606 of 2021 etc., batch were posted under the caption "for reporting compliance, on 29.06.2021, the following order has been passed:-

"Today, when the matters were taken up, the learned Advocate General appearing for the respondents submitted that as per the order of this Court dated 30.04.2021, compliance report was filed on 28.06.2021, wherein, it is inter alia stated that a total number of 177 brick klin units located in Veerapandi, Chinnathadagam, Somayampalayam, Nanjundapuram and Pannimadai Village, Coimbatore North Taluk, Coimbatore District have been closed by the first respondent as they were not in possession of valid registration certificates and permit for quarrying brick earth from patta lands as required under Rule 19 (2) of Tamil Nadu Minor Mineral Concession Rules, 1959. He further submitted that the respondent authorities would monitor and take proper action periodically to curb the illegal quarrying.

2. In view of the above, no further order is required to be passed in this batch of Writ Petitions, except recording the aforesaid submission made by the learned Advocate General and the



compliance report dated 27.06.2021 filed on the side of the respondents. Accordingly, the same are placed on record."

5. Now, the learned counsel for the petitioner submitted that the same order may be passed in this writ petition as well inasmuch as notice dated 19.03.2021, which is impugned in this writ petition, has not been issued by the District Collector, Coimbatore, but by the Tahsildar, who is legally incompetent to issue any such notice, as has been held by this Court.

6. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents. The issue involved in these writ petitions is no longer res integra and it is covered by the earlier order dated dated 30.04.2021 passed by this Court in WP Nos. 9606 of 2021 etc., mentioned supra. Therefore, in the light of the aforesaid order dated 30.04.2021, the impugned notice dated 19.03.2021 issued by the respondents 2 to 4 is set aside. The District Collector, Coimbatore, the first respondent in this writ petition, is directed to pass appropriate orders with respect to the claim of the petitioner after affording him an opportunity of hearing within a period of six weeks from the date of receipt of a copy of this order. The impugned order would be treated as notice to the petitioner for appearing before the District Collector and no separate notice in this regard will be issued to the petitioner. The petitioner is at liberty to submit all relevant documents in support of his claim. It is also open to the respondents to take any action against the brick kilns, including the petitioner, if it is found that the same has been operated without any license/clearance in the manner known to law. This order would not preclude the authorities in exercising their powers in accordance with law. It is also made clear that the owner of the brick kilns can run the show, if he possess a valid licence and other documents to do so.

7. Accordingly, the the writ petition is disposed of. No costs. Consequently, all the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

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Coimbatore District
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2. The Assistant Director
Department of Geology & Mining
Coimbatore - 641 018
3. The District Environmental Engineer
Tamil Nadu Pollution Control Board
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TANGEDCO, K. Vadamadurai
Coimbatore District

WP No.11403 of 2021

GPL (CO)
RGA (17/09/2021)