



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 20794 of 2021

and

W.M.P. Nos. 22060, 22063, 22065 & 22069 of 2021

1. B. Saravanan
2. S. Tamil
3. M. Nagapooshanam
4. L. Mohan Prabu
5. S. Muthu
6. R. Kalaviswanathan
7. P. Bakkiyaraj
8. M. Dharmalingam
9. A. Rajaguru
10. S. Ponni

.. Petitioners

Versus

1. The District Collector
Cuddalore District
Cuddalore
2. The Assistant Director
Mines and Minerals Department
Cuddalore District
3. The Revenue Divisional Officer
Cuddalore
Cuddalore District
4. The Tahsildar
Panruti Taluk
Cuddalore District

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent in Pa.Mu.A4/2778/2021 dated 07.09.2021 and to quash the same and consequently directing the respondents to remove the seal from the Brick Kilns belong to the petitioners forthwith



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For Petitioners : Mr. G. Sankaran
For Respondents : Mr. Stalin Abhimanyu
Government Counsel

ORDER

The prayer made in this writ petition is to issue a writ of certiorarified mandamus to call for the records relating to the proceedings issued by the third respondent dated 07.09.2021, quash the same and consequently, direct the respondents to remove the seal from the Brick Kilns belonging to the petitioners.

2. According to the petitioners, they are the owners of the patta lands / lessees of lands comprised in different survey numbers located in Kilkavarapattu Village, Panruti Taluk, Cuddalore District, carrying on brick earth therein, the details of which are tabulated hereunder:

Name	Capacity	Survey no.
B.Saravanan	Owner	84/5
Tamil	Lessee	108/1 and 108/2
Nagabushanam	Owner	83/3, 76/1A2, 84/1B, 76/1B, 80/1B, 84/2B1, 83/4A, 83/4B and 81/6
Mohan Prabu	Owner	207/13, 207/14 and 207/15
S.Muthu	Owner	42/3A1, 42/3A2 and 42/3A4
R.Kasiviswanathan	Owner	118/2 and 118/3
P.Bakkiyaraj	Owner	26/1A2
M.Dharmalingam	Owner	59/5, 59/1 and 59/2
A.Rajaguru	Owner	294/2B
S.Ponni	Owner	210/9A, 212/5A2 and 233/22

The petitioners further stated that Anna Gramam Union, Panruti Taluk, Cuddalore District is the hub for brick kilns chambers, where quarry of brick earth is carried on, within the permissible limit, without any deviation, by the land owners/



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lessees in their respective lands, including the aforesaid petitioners. Seeking permission / licence from the Department of Geology and Mining, they submitted applications under Rule 19(2) of Tamil Nadu Minor Mineral Concession Rules, 1959. Upon receipt of the same, inspection was conducted and enquiry report was submitted by the Revenue Tahsildar of Panruti Taluk. However, none of the applications were processed, except one application submitted in the name of the husband of the 10th petitioner, which was considered and permission was granted by the first respondent on 02.02.2019. While so, one Jayaganesh filed a Writ Petition in W.P. No. 14177 of 2021 as Public Interest Litigation, in which, the petitioners were party respondents, for directing the respondent officials to close down the unauthorised illegal operation of brick kilns by the private respondents at Kilkavarapattu village and post, Panruti Taluk. By order dated 02.08.2021, recording the submissions that the operation of the illegal brick kilns has been stopped and steps are taken to levy penalty in accordance with law, the said writ petition was disposed of, with an observation that it should be ensured by the authorities concerned that such illegal brick kilns do not spring up again at the same location. Pursuant to the said order, the respondent officials have come to the lands belonging to the petitioners and sealed the kilns on 07.09.2021, without any notice and providing an opportunity of hearing to the petitioners. Feeling aggrieved, the petitioners have come up with this writ petition for the aforesaid relief.

3. The learned counsel for the petitioners vehemently contended that the applications submitted by the petitioners seeking permission / licence have not been considered. In fact, the application made by the first petitioner was processed after a long time and was forwarded along with inspection report by the Tahsildar, Panruti Taluk, recommending for grant of permission / licence only on 13.09.2021, but it is pending with the first respondent; and the husband of the 10th petitioner alone was granted permission / licence for brick earth quarry, by proceedings dated 02.02.2019. Therefore, the action of the respondents sealing the brick earth quarry belonging to the petitioners and the subsequent proceedings dated 07.09.2021 issued by the third respondent, imposing penalty, without providing any opportunity to the petitioners, are arbitrary, illegal and in violation of the principles of natural justice. Stating so, the learned counsel prayed to allow this writ petition,

4. On the other hand, the learned Government Counsel appearing for the respondents submitted that without getting prior permission, the petitioners have carried on brick earth quarrying illegally and hence, the same were closed, pursuant to the order of this court dated 02.08.2021 in WP.No.14177 of 2021.



However, the learned counsel fairly submitted that the first respondent would consider the petitioners' applications / appeals, if any, pending on his file, and pass orders, on merits.

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5. There cannot be any dispute that quarrying operations have to be carried on by the land owners / lessees, after obtaining necessary permission from the competent authorities and if it is not done so, the respondent authorities would certainly take action to stop those illegal operations. In the case at hand, as per the order of this court 02.08.2021 in WP.No.14177 of 2021, the third respondent has taken action to seal the brick kilns belonging to the petitioners and passed an order dated 07.09.2021 imposing penalty, which according to the petitioners, is not in accordance with the principles of natural justice.

6. This court, considering the facts and circumstances of this case and having regard to the submissions made by the learned counsel on either side, is of the view that as against the proceedings passed by the third respondent, the petitioners have an appeal remedy before the first respondent and without exhausting the same, they have filed the present writ petition to quash the said proceedings. Therefore, it would be appropriate to direct the first respondent to consider the applications submitted by the petitioners seeking permission / licence, if not considered earlier, besides considering the appeals, if any filed by them, as against the proceedings of the third respondent, and pass appropriate orders thereon, on merits and in accordance with law, after affording reasonable opportunity of hearing to the petitioners, as expeditiously as possible, without causing any further delay and accordingly, the first respondent is directed.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

dhk



To

1. The District Collector
Cuddalore District
Cuddalore
2. The Assistant Director
Mines and Minerals Department
Cuddalore District
3. The Revenue Divisional Officer
Cuddalore
Cuddalore District
4. The Tahsildar
Panruti Taluk
Cuddalore District

+1cc to the Government Pleader, S.R.No.53124, 52802

WP No. 20794 of 2021

RSV(CO)
SU(26/10/2021)