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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P.No.32900 of 2017 &
WMP.No.36270 of 2017

D. Rosiah

.. Petitioner

Vs.

1.The District Collector,
Thiruvallur District,
Thiruvallur 602 001.

2.The Assistant Director,
Mines Department Tiruvallur
District, Thiruvallur 602 001.

3.M.Premkumar

.. Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus directing the 1st and 2nd Respondents to consider petitioner's representation dated 09.11.2017 and consequently forbearing the 3rd respondent from engaging in illegal mining of the sand from the property situated at Survey No.498/3A1 and 498/3A2 measuring A 0.85 cent at Thirunindravur Madura Kilakuppam Village, Avadi Taluk, Thiruvallur District.

For Petitioner : Dr.P.Vasudevan

For Respondents : Mr.Stalin Abimanyu,
Govt. Advocate for R1 and R2

O R D E R

This writ petition has been filed seeking a mandamus directing the respondents 1 and 2 to consider the petitioner's representation dated 09.11.2017 and consequently forbearing the 3rd respondent from engaging illegal mining of sand from the property situated at Survey Nos.498/3A1 and 498/3A2,



Thirunindravur Madura Kilakuppam Village, Avadi Taluk,
Thiruvallur District.

2. According to the petitioner, he is the owner of the agricultural land measuring to an extent of 1.55 cent comprised in Survey No.498/3B situated at Kilakuppam Village, Thirunindravur, Thiruvallur District and is carrying on cultivation in the said land. While so, the 3rd respondent, who is the owner of the petitioner's adjacent land started illegal mining of sand in his land. Hence, the petitioner made a representation dated 09.11.2017 to the 1st respondent, a copy of which was marked to the second respondent, requesting to take action to stop such illegal mining activity by the 3rd respondent, besides making a representation to the police authorities on 23.11.2017. Since no action was taken by any of the authorities, he has come up with this writ petition for the aforesaid relief.

3. Upon notice, the first respondent filed a detailed counter affidavit, wherein, it is inter alia stated that as per the report of the Tahsildar, Avadi, the Sub Collector, Tiruvallur has issued necessary proceedings in Rc.No.438/2018/A1 dated 07.09.2018 levying seigniorage fee, cost of mineral and penalty to the tune of Rs.24,73,845/- as per Rule 36(A) of the Tamil Nadu Minor Mineral Concession Rules, 1959 against the third respondent and directed the individual to remit the penalty amount into the prescribed head of account within the stipulated time. Further, the Sub Collector, Tiruvallur has instructed the Tahsildar, Avadi to take adequate steps for preventing illegal removal of sand from S.Nos.498/3A1 & 498/3A2 in future. Therefore, the prayer of the petitioner has been met with by the respondent authorities.

4. The aforesaid averments made in the counter affidavit filed by the first respondent have been stoutly refuted by the learned counsel for the petitioner. However, he submitted that the petitioner may be granted liberty to approach the authorities concerned with fresh representation in detail enclosing the required materials to support his case, for which the learned Government Advocate appearing for the respondents 1 and 2 has no serious objection.

5. In view of the above, this writ petition stands disposed of, granting liberty to the petitioner to make a fresh representation detailing all the facts and circumstances of the case with supporting documents before the authorities concerned. On such representation being made, the authorities concerned shall consider the same and pass appropriate orders on merits and in accordance with law, as expeditiously as possible.



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6.This Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

msr

To

- 1.The District Collector,
Thiruvallur District,
Thiruvallur 602 001.
- 2.The Assistant Director,
Mines Department,
Tiruvallur District,
Thiruvallur 602 001.

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PCH (CO)
PR (27/08/2021)