



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2021
(Reserved on 05.07.2021)

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.5463 of 2021

and

WMP(MD)No.4352 of 2021

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Jeyamary

... Petitioner

vs.

1)The District Collector,
Virudhunagar District,
Virudhunagar.

2)The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Aruppukottai Taluk,
Virudhunagar District.

3)The Tahsildar,
Aruppukottai Taluk,
Virudhunagar District.

4)The Deputy Director (Mines),
Department of Geology and Mining,
Collectorate,
Virudhunagar-626 001.

5)Saravana Ganesan

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the 1st to 4th respondents to stop the illegal quarrying at Aladipatti Village, Aladipatti Post, Aruppukottai Taluk, Virudhunagar District and consequently direct the respondents 1 to 4 to take action against the 5th respondent for the illegal quarrying by considering the representation of the petitioner dated 21.01.2021 within the stipulated time.

For Petitioner : Mr.L.Prabhu

For R1 to R4 : Mr.P.Thilak Kumar

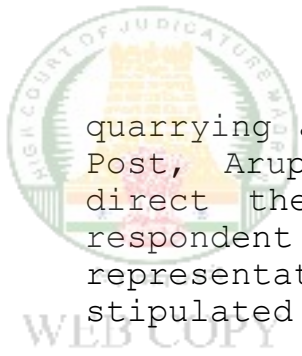
Government Advocate

For R6 to R10 : Mr.K.Govindaraj for

Mr.M.Karthikeyavenkitachalapathy

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the 1st to 4th respondents to stop the illegal

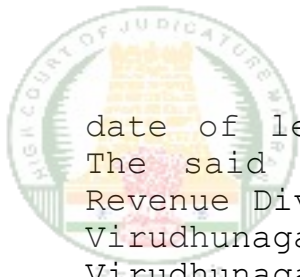


quarrying at S.Nos.210, 211 and 207 Aladipatti Village, Aladipatti Post, Aruppukottai Taluk, Virudhunagar District and consequently direct the respondents 1 to 4 to take action against the 5th respondent for the illegal quarrying by considering the representation of the petitioner dated 21.01.2021 within the stipulated time.

2.The learned counsel for the petitioner would state that the 5th respondent is running a stone quarry in the abovesaid address and illegally conducting quarrying operation without any permit or licence. There is an Oorani namely, Thandan Oorani in S.No.211/8 situated adjacent to the said quarry and all of a sudden, the 5th respondent has filled up sand blocking the flowing of water in the Oorani, due to which, flowing of water during rainy season into the agricultural lands in and around the quarry has been completely stopped by the 5th respondent. According to the petitioner, not only his agricultural field is situated adjacent to the quarry, but also some other villagers' agricultural fields are situated and in view of the stone quarry which is raised over 200 meters, the stones of huge size in nature are flying and fallen into the agricultural fields and strewn all over the road posing danger to the villagers and public at large. Therefore, the petitioner made a representation dated 04.08.2020, in this regard and based on his representation, a proposal letter was sent to the 3rd respondent by the 2nd respondent dated 10.08.2020 directing the 3rd respondent to inspect the 5th respondent's quarry and to conduct a detailed enquiry and submit a report.

3.According to the petitioner, till date, the 3rd respondent neither conducted inspection nor enquiry for reasons best known to him. The petitioner sent second collective representation dated 26.08.2020 on behalf of the villagers to the respondents 1, 3 and 4 to cancel the licence granted to the 5th respondent and to save the villagers to live in a peaceful manner, but no action was taken. Now the 5th respondent is using high explosives for his illegal quarrying operations affecting the regular activity of the villagers. Thereafter, the petitioner sent 3rd representation dated 21.01.2021 and pursuant thereto, a proposal was sent to the 3rd respondent by the 2nd respondent to conduct inspection and submit a report. Inspire of repeated requests, the 3rd respondent did not take any step to prevent the illegal quarrying operations by the 5th respondent. Hence, this writ petition.

4.The official respondents 1 to 4 have filed counter affidavit. The learned Government Advocate appearing for the official respondents would state that the 5th respondent was granted quarry lease over an extent of 3.18.5 hectares in S.No.210, Aladipatti Village, Aruppukottai Taluk, Virudhunagar District for quarrying rough stone, jelly and gravel under rules 19 and 20 of the Tamilnadu Minor Mineral Concession Rules 1959 for a period of 5 years from the



date of lease agreement dated 29.12.2018 with the 1st respondent. The said lease was granted based on the recommendation of the Revenue Divisional Officer, Aruppukottai, Assistant Geologist(Mines), Virudhunagar, and NOC granted by the State Pollution Control Board, Virudhunagar.

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5.He would further state that the 2nd respondent in his report dated 10.05.2018 stated that there are no valuable trees, buildings, worshipping places, ancient monuments, mayanam, agricultural crops in the site proposed for quarry lease and he has also set out the physical features of the site in and around the quarry and based on the said report, the 1st respondent granted quarry licence to the 5th respondent. Based on the recommendations made by the Assistant Geologist(Mines), Virudhunagar, conditions were also incorporated in the order granting lease to the 5th respondent.

6.The learned Government Advocate would further state that the disputed Thathan Oorani is in S.No.211/8 and the 1st respondent in his order dated 29.12.2018 has already imposed a condition that 50 meters safety distance has to be provided for S.No.211/8 Thathan Oorani. He would also state that before granting quarry licence to the 5th respondent, notice was published in the village by the Village Administrative Officer, Aladipatti Village, from 13.03.2018 to 14.04.2018 inviting objections and in view of the no objections received from the villagers, the 2nd respondent recommended for quarry lease to the 5th respondent. On the allegation of the petitioner that the 5th respondent is conducting illegal quarrying operation, the 2nd respondent has sent a report dated 20.04.2021 to the 1st respondent and stated that there is no illicit quarrying in S.Nos.211/9A, 221/9B, 207/4. Thus, he would pray for dismissal of the writ petition.

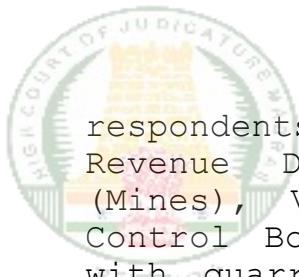
7.The 5th respondent has also filed a detailed counter disputing the allegations in the writ petition.

8.Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents 1 to 4 and the learned counsel for the 5th respondent.

9.The grievance of the petitioner is that the 5th respondent is conducting illegal quarrying operations at S.Nos.210, 211 and 207, Aladipatti Village, Aladipatti Post, Aruppukottai Taluk, Virudhunagar District and has filled up sand in the adjacent Oorani blocking the flowing of water in the Oorani, due to which, flowing of water during rainy season into the agricultural lands in and around the quarry has been completely stopped by the 5th respondent. The only question to be decided in this writ petition is whether the 5th respondent is conducting illegal quarrying operations or not.

10.Perusal of the counter affidavit filed by the official

<https://hcservices.ecourts.gov.in/hcservices/>



respondents would show that based on the recommendations of the Revenue Divisional Officer, Aruppukottai, Assistant Geologist (Mines), Virudhunagar, and NOC granted by the State Pollution Control Board, Virudhunagar, the 5th respondent has been granted with quarry lease/licence over an extent of 3.18.5 hectares in S.No.210, Aladipatti Village, Aruppukottai Taluk, Virudhunagar District for quarrying rough stone, jelly and gravel under rules 19 and 20 of the Tamilnadu Minor Mineral Concession Rules 1959 for a period of 5 years from the date of lease agreement dated 29.12.2018 with the 1st respondent/District Collector and therefore, it is clear that there is no illegal quarrying operation by the 5th respondent as alleged by the petitioner. Further, based on the representations of the petitioner that the 5th respondent blocked the flowing of water in the adjacent Oorani by filling up sand and the quarrying stones are flying and fallen in the agricultural field affecting the agricultural activities of the villagers, inspection has been conducted and report has been sent by the 2nd respondent to the 1st respondent that there is no illicit quarrying in S.Nos.211/9A, 211/9B and 207/4, Aladipatti Village, Aruppukottai. In my opinion, there is no merit in the writ petition.

11. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)

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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,
Virudhunagar District,
Virudhunagar.

2) The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Aruppukottai Taluk,
Virudhunagar District.



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3) The Tahsildar,
Aruppukottai Taluk,
Virudhunagar District.

4) The Deputy Director (Mines),
Department of Geology and Mining,
Collectorate,
Virudhunagar-626 001.

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DATED : 03.08.2021

RD(10.08.2021) 5P 5C