



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.[MD]Nos.1196 & 1246 of 2021

and

C.M.P.[MD]Nos.5074 & 5238 of 2021

Sri Vidhya : Appellant in both Writ Appeals
Vs.

1.K.Sabarimalai : 1st respondent in W.A.[MD]No.1196/21
1.K.Santhanam : 1st respondent in W.A.[MD]No.1246/21

2.The District Collector,
District Collector Officer,
Virudhunagar District.

3.The Director of Geology and Mining,
Alandur Road, Guindy Institutional Area,
SIDCO Industrial Estate,
Guindy, Chennai - 600 032.

4.The Deputy Director of Geology and Mining,
Office of the Deputy Director of Geology and Mining,
Virudhunagar District,
Virudhunagar.

5.The Tahsildar,
Office of the Tahsildar,
Rajapalayam Taluk,
Virudhunagar. : Respondents 2 to 5 in both Writ Appeals

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent, praying to set aside the common order dated 26.04.2021, in W.P.[MD]Nos.13406 of 2020 and 18575 of 2019.

Prayer in WP(MD). 13406/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of mandamus directing the respondents 1 to 4 to cancel the 5th respondents quarry tender license at survey no.846/1 of Thirupanaimalai, Ayan Kollankondan village, Rajapalayam taluk, Virudhunagar dist.

Prayer in WP(MD). 18575/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus Directing the respondents 1 to



4 to forbear the 5th Respondent to operate the quarry operation at S.No.846/1 of Mottamalai Village, Ayan Kollakondan Village, Rajapalayam Taluk, Virudhunagar District.

For Appellant : Mrs.Narmada Sampath
For Respondent No.1 : Mr.Sricharan Rengarajan
for Mr.Malayendhiran
For Respondents 2 to 5: Mr.Veerakathiravan,
Senior Counsel for State Govt.
Assisted by Mr.A.K.Manickam,
Standing Counsel for State Govt.
[In both Writ Appeals]

COMMON JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have heard Mrs.Narmada Sampath, learned Counsel appearing for the appellant, Mr.Sricharan Rengarajan for Mr.V.Malayendran, learned Counsel appearing for the first respondent and Mr.Veera Kathiravan, learned Senior Counsel for State Government assisted by Mr.A.K.Manickam, learned Standing Counsel for Government appearing for the respondents 2 to 5.

2.With the consent on either side, these Writ Appeals are taken up for disposal.

3.These appeals by the fifth respondent in the writ petitions challenge the common order dated 26.04.2021, in W.P.[MD]Nos.13406 of 2020 and 18575 of 2019.

4.The petitioners filed the writ petitions praying for the following reliefs:

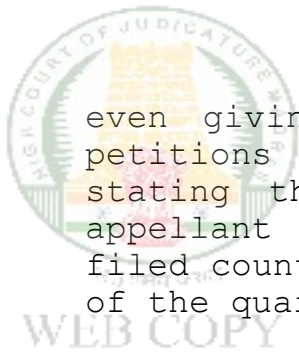
"In W.P. [MD]No.13406 of 2020:

to issue a Writ of Mandamus, directing respondents 1 to 4 to cancel the fifth respondent's quarry license at Survey No.846/1 of Thirupanaimalai, Ayan Kollakondan Village, Rajapalayam Taluk, Virudhunagar District.

In W.P. [MD]No.18575 of 2020:

to issue a Writ of Mandamus, directing respondents 1 to 4 to forbear the fifth respondent to operate the quarry at Survey No.846/1 of Mottamalai Village, Ayan Kollakondan Village, Rajapalayam Taluk, Virudhunagar District."

5.Before approaching the Writ Court, a representation dated 19.09.2020, is shown to have been sent to the official respondent. We find that the said representation was sent by speed post on 22.09.2020 and the writ petition was filed on 24.09.2020, without

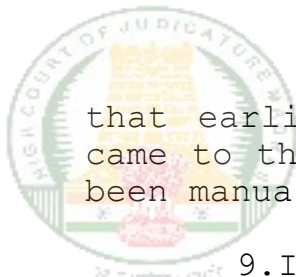


even giving reasonable time for the parties to act. The writ petitions were pending, the authorities filed counter affidavit stating that there is no statutory violation committed by the appellant / fifth respondent. Equally, the fifth respondent also filed counter affidavit and the learned Writ Court imposed total ban of the quarrying operation done by the appellant.

6.On a total reading of the impugned order, we find the observations and findings contained in paragraph Nos.9 to 17 of the impugned order are all pertaining as to how natural resources needs to be conserved, how illicit mining is to be curbed and the duty cast upon the State to regulate such mining activities and various other doctrines propounded by the Hon'ble Supreme Court such as public trust doctrine, doctrine of sustainable development etc. We are in full agreement with the learned Single Bench *qua* the observations made in this regard. But, to be noted that the writ petitions were not filed as Public Interest Litigations, rather by two writ petitioners who are brothers, alleging that the appellant has violated the conditions of lease granted to her for mining rough stone. If such was the case, the Court is to record the finding that there is a violation or direct the authorities to submit a report to ascertain as to whether there is any violation as alleged by the petitioners being committed.

7.On a perusal of the representation dated 19.09.2020 submitted by the petitioners, we find that there is no specific allegation made by the writ petitioners. Rather, vague averments have been made stating that indiscriminate blast operations have been carried on etc. If such was the contention raised by the writ petitioners which was denied by the official respondents as well as the appellant/fifth respondent, then, this Court is to examine the correctness of the allegations and counter allegations made to come to a conclusion as to whether the remedy sought for by the writ petitioners can be granted. In the absence of any such endeavour made by the learned Writ Court and as already observed, the writ petitions not being Public Interest Litigations, no directions on such vague observations could have been issued by the Writ Court which is of far reaching consequence, virtually setting at not or cancelling the lease granted to the appellant.

8.In the counter affidavit filed by the official respondents, it has been stated that the quarry was an existing quarry and prior to lease being granted to the appellants, women self help groups were operating in the quarry. It is not clear as to why at that juncture the writ petitioners did not raise that issue. Be that as it may, based on the facts that were available on the Writ Court, without a decision on the issue as to whether there is violation or not, a general ban could not have been granted. The learned Counsel appearing for the first respondent / writ petitioners pointed out about the observations made in paragraphs 17 & 18 of the impugned order. The learned Writ Court, while taking note of the fact



that earlier stone quarry was operated by women self help groups came to the conclusion that those women self help groups would have been manually operating the quarry without using explosives.

9. In our considered view, there was no material before the Writ Court to come to such a conclusion. In any event, the *lis* before the Writ Court was whether the appellants have violated the terms and conditions of the lease or not. Therefore, it was incumbent on the learned Writ Court to examine as to whether there was a violation, without which the final conclusion and direction issued in paragraph No.19 cannot be sustained. As we are satisfied that the merits of the claim made by the writ petitioners have not been gone into and other observations are beyond the scope of the writ petitions pending before the Writ Court, the order passed calls for interference.

10. For the above reasons, the Writ Appeals are allowed, setting aside the common order dated 26.04.2021 passed in the writ petitions. Consequently, the writ petitions in W.P.[MD]Nos.13406 of 2020 and 18575 of 2019 are dismissed. However, if the writ petitioners are so aggrieved, it is open to them to point out specific allegations, which shall be considered by the authorities in accordance with law. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

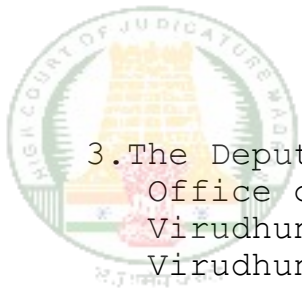
Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
District Collector Officer,
Virudhunagar District.

2. The Director of Geology and Mining,
Alandur Road, Guindy Institutional Area,
SIDCO Industrial Estate,
Guindy, Chennai - 600 032.

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



3.The Deputy Director of Geology and Mining,
Office of the Deputy Director of Geology and Mining,
Virudhunagar District,
Virudhunagar.

4.The Tahsildar,
Office of the Tahsildar,
Rajapalayam Taluk,
Virudhunagar.

+2 CC to M/s.S.NARMATHASAMPATH, Advocate (SR-20479[F] dated
29/06/2021)

+1 CC to M/s.SPL GP (SR-20580 & 20719[F] dated 29/06/2021)

COMMON JUDGMENT MADE IN
W.A. [MD]Nos.1196 & 1246 of 2021
28.06.2021

LS (CO)
TR(13.07.2021) 5P 8C