



WEB COPY

W.P.(MD)No.11658 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.09.2021**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.11658 of 2021

and

W.M.P (MD)No.9174 of 2021

R.Elavarasan

... Petitioner

-Vs-

- 1.The Director of Geology and Mining,
Office of the Director of Geology and Mining,
Alandur Road,
Guindy Industrial Estate,
Guindy, Chennai - 32.
- 2.The District Collector,
Madurai District, Madurai.
- 3.The Assistant Director of Geology and Mining,
Office of The Assistant Director of Geology and Mining,
Collectorate Campus, Madurai.
- 4.The Revenue Divisional Officer,
Office of The Revenue Divisional Officer,
Madurai, Madurai District.
- 5.The Tahsildar,
Vadipatti Taluk,
Madurai District.
- 6.U.Chelladurai
- 7.U.Raja Mohammed

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 to initiate appropriate action against the Respondent No.6 and 7 and erring officials who had permitted the illegal sand mining in S.No.25/2, 25/4D, 25/6F, 24/1, 24/8, 24/9A, 24/9B, 24/9C, 24/9D, 26/5, 26/7 at Vavidamaruthur Village, Vadipatti Taluk, Madurai District and restore the said lands to its original position within the time frame stipulated by this Court.

For Petitioner	: Mr.M.Mahaboob Fazil
For R1 to R5	: Mr.D.Ghandiraj Government Advocate
For R6	: Mr.C.Vakeeswaran
For R7	: Mr.Prem Ayyathurai for M/s.Ajmal Associates



ORDER

The prayer sought for herein is the Writ of Mandamus, directing the respondents 1 to 5 to initiate appropriate action against the Respondent No.6 and 7 and erring officials who had permitted the illegal sand mining in S.No.25/2, 25/4D, 25/6F, 24/1, 24/8, 24/9A, 24/9B, 24/9C, 24/9D, 26/5, 26/7 at Vavidamaruthur Village, Vadipatti Taluk, Madurai District and restore the said lands to its original position within the time frame stipulated by this Court.

2.The case of the petitioner is that the petitioner is the adjacent land owner of the land in Survey no. S.No.25/2, 25/4D, 25/6F, 24/1, 24/8, 24/9A, 24/9B, 24/9C, 24/9D, 26/5, 26/7 in Vavidamaruthur Village, Vadipatti Taluk, Madurai District. Out of the said land, insofar as the survey nos. 2/11B, 2/12B, 2/12C, 2/8B, 21/2, 21/3B, 21/3C & 21/3D to an extent of 1.97.5 hectares, quarry lease to quarry the gravel was given to the sixth respondent by the orders of the second respondent District Collector dated 06.02.2013.

3.The lease period was over as early as on 13.02.2015. However, in this regard, the grievance of the petitioner is that, the 6th respondent has continued with the quarrying operation by taking gravel beyond the permitted length of deepness and he continued to quarry even beyond the licence or lease period, which was over on 13.02.2015. There has been a loss to the respondent Government and by virtue of continuous unabated quarrying, there is a likelihood of affecting the adjacent lands, especially lands belonging to the petitioner. Therefore, in order to prevent such alleged illegal quarrying being undertaken by the 6th respondent with the help of the seventh respondent and to initiate action against them under the provisions of the Tamil Nadu Mines and Minerals Concession Rules, 1959 or any other law for the time being in force, the petitioner seems to have given a representation to the respondents on 27.04.2021. Since the same according to the petitioner has not been acted upon by the respondents, he has approached this Court by filing this present writ petition.

4.When this writ petition came up for hearing for admission on 12.08.2021, this Court passed the following order:

"It is the grievance of the petitioner that the petitioner is the adjacent land owner of the lands concerned, for which, quarrying license was given to the sixth respondent that was over, ie., the license period was over as early as in the year 2015 itself. In this context, the grievance of the petitioner is two fold. Firstly, the petitioner's grievance is that, during the lease and license period, in violation of the lease and license conditions, the sixth respondent along with seventh respondent had quarried with a deeper



length of nearly about 10 to 15 meters, though the permission was given for only a lesser meter and in this context, there had been a violation of the conditions imposed through the license as well as the lease.

2.The second grievance of the petitioner is that, though the license and lease was over in the year 2015, beyond the license period the sixth and seventh respondents continued in illegal quarrying and the same has been stopped only when the petitioner instituted this writ petition.

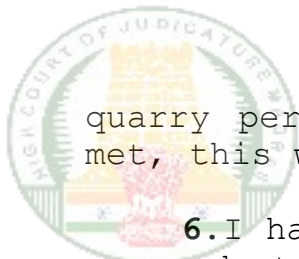
3.In this context, learned Counsel for the respondents 6 and 7 would submit that beyond the license period, they have not done any illegal quarrying and during the license period they have not violated the lease or license conditions.

4.However, learned Government Advocate appearing for the official respondents submits that though very recently the quarrying operation had been stopped, but, for a considerable time beyond the lease period and till recently, there had been illegal quarrying on the part of the respondents 6 and 7, for which, after inspection, a report has been prepared by the respondents, especially, the Geology and Mining Department as well as the District Collector concerned and such report shall be filed before this Court. Hence, he seeks a short accommodation.

5.Post the matter on **24.08.2021**, for filing such report on behalf of the official respondents with regard to the alleged illegal quarrying done by the respondents 6 and 7."

5.Pursuant to the same, the second respondent/District Collector has filed a detailed counter affidavit. Relying upon the same, Mr.D.Ghandiraj, learned Government Advocate appearing for the official respondents has submitted that, on 22.07.2021, an inspection has been conducted by the Assistant Geologist (Mines), Special Revenue Inspector (Mines), at the Office of the Deputy Director, Geology and Mining, Madurai, pursuant to which, a detailed report has been submitted, where it has been revealed that the 6th respondent has quarried 1,43,800 cubic meters or 47933 units of gravel from the said land and beyond which, he had quarried over an extent of 3.59.5 hectares, though he had been given quarry permission only for 1.97.5 hectares. Based on this report, a communication had been given on 27.07.2021 to the third respondent to take appropriate action under the relevant provisions of the Tamil Nadu Mines and Minerals Concession Rules, 1959 and therefore, since there has been a punitive action taken by the concerned

<https://hccs.courts.tn.in/hccs/index>



quarry permit or lease, the petitioner's grievance since has been met, this writ petition can be disposed of, he contended.

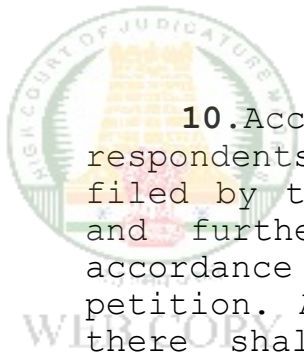
6.I have also heard the learned counsel appearing for the sixth respondent, who would submit that, the report if anything filed has not been served on him and what are all the averments available in the said report are not known to him. Be that as it may, if at all any proposed action is taken against the sixth respondent for the alleged violation, notice shall be given to him and after hearing the sixth respondent, further action shall be completed on the part of official respondents, he contended.

7.I have considered the said submissions made by the learned counsels appearing for both parties and have perused the materials placed before this Court.

8.In the counter affidavit filed by the second respondent dated 31.08.2021, *inter alia* the following has been stated:

"6.With regard to para 5 & 6, I respectfully submit that, based on the compliant petition dated 21.06.2021 received from the petitioner on 30.06.2021, the survey numbers mentioned where gravel was quarried illegally in SF No.s.. were inspected by Ass... along with Vavidaimaruthur village administrative officer on 22.07.2021 and reported that 1,43,800 cbm or 47933 unit of gravel have been quarried without permission in S.F.No.s.. over an extent of 3.59.5hectares of Vavidamaruthur village upto a depth of 4 meters from the surface level. Based on the report of the Assistant Geologist, the Revenue Divisional Officer, Madurai has been requested to take appropriate penal action against the offender under Rule 36-A of Tamil Nadu Minor Mineral Concession Rules, 1959 vide ROC No.787/Mines/2021, dated 27.07.2021. The appropriate penal action is being taken by the Revenue Divisional Officer, Madurai."

9.In view of the said stand taken by the second respondent, where it has been detailed that inspection was conducted and a report has been filed on 22.07.2021, according to which, it was reported that 1,43,800 cubic meters excess gravel have been quarried by the sixth respondent and in this regard, on 27.07.2021, a communication has been made to the third respondent to take further punitive action against the sixth respondent for alleged violation of quarry conditions. Therefore, in this regard, since action has already been initiated by setting the law in motion, the petitioner's prayer since has been met, this writ petition can be disposed of.



10. Accordingly, by recording the aforesaid stand of official respondents, especially the averments made in the counter affidavit filed by the second respondent and by taking the same into record and further directing the official respondents to proceed in accordance with law, this Court is inclined to dispose this writ petition. Accordingly, this writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PNM/SM

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 Director of Geology and Mining,
Office of The Director of Geology and Mining,
Alandur Road, Guindy Industrial Estate,
Guindy, Chennai - 32.
2. The District Collector,
Madurai District, Madurai.
3. The Assistant Director of Geology and Mining,
Office of The Assistant Director of Geology and Mining,
Collectorate Campus, Madurai.
4. The Revenue Divisional Officer,
Office of The Revenue Divisional Officer,
Madurai, Madurai District.
5. The Tahsildar,
Vadipatti Taluk,
Madurai District.

+1 CC to M/s.C.VAKEESWARAN, Advocate (SR-29694[F] dated 21/09/2021)
+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-29802[F] dated 21/09/2021)
+1 CC to M/s.SPL. GP (SR-29783[F] dated 21/09/2021)

W.P. (MD)No.11658 of 2021

RS (09.11.2021) 5P 9C

20.09.2021



WEB COPY

W.P.(MD)No.11658 of 2021