



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.04.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.17959 of 2020

Thiru.N.Sahul Hameed

... Petitioner

Vs.

The District Collector,
Office of the District Collector,
Sivagangai,
Sivagangai
District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order vide No.Na.Ka.M2/776/2017 dated 12.11.2020 of the respondent and quash the same as illegal and consequently direct the respondent to extend the time limit to take the used sand from one of the petitioner's Patta Lands situate in S.Nos.115/2,115/4A, 115/5A, 115/6, 115/7, 116/2, 117/7, 116/1A and 116/1A of Kalpiravu Revenue Village of Manamadurai, Sivagangai District to another lands situate in S.No.191/1A1, 192/2B of Thanakkankulam Village, Madurai by considering his representation dated 10.10.2020.

For Petitioner : Mr.C.M.Arumugam
For Respondent : Mrs.J.Padmavathi Devi,
Special Government Pleader

ORDER

This writ petition is filed by the petitioner to quash the order of the respondent dated 12.11.2020 in proceedings Na.Ka.M2/776/2017, as illegal and consequently, to direct the respondent to extend the time limit to take the used sand from one of the petitioner's Patta Lands situate in S.Nos.115/2, 115/4A, 115/5A, 115/6, 115/7A, 116/2, 116/7, 117/1A and 117/6A of Kalpiravu Revenue Village of Manamadurai, Sivagangai District to another lands situate in S.No.191/1A1, 192/2B of Thanakkankulam Village, Madurai, by considering his representation dated 10.10.2020.

2. The brief facts of the case are as follows:

(i) The petitioner purchased the property in Survey Nos.115/2, 115/4A, 115/5A, 115/6, 115/7A, 116/2, 116/7, 117/1A and 117/6A of Kalpiravu Revenue Village of Manamadurai, Sivagangai District, to an extent of 5 acres 33 cents. According to the petitioner, in earlier days, a mill was functioning in that place and thereafter, only debris were found after the purchase of the petitioner. Thereafter, when the petitioner started to clean the property, he



found that sand was available in the basement of the dilapidated building, which was used at the time of constructing the basement seventy years ago. Subsequently, as the sand found in the basement of the dilapidated building is fit for reuse, the petitioner decided to use it for building construction at Thanakkankulam Village of Madurai. Therefore, the petitioner has given a representation to the respondent on 24.08.2017 and sought permission to take the used sand from the property at Kalparavu Revenue Village, Sivagangai District to his own property at Thanakkankulam Village of Madurai District.

(ii) While the matter stood thus, based on the representation given by the petitioner, the respondent initiated proceedings and directed the Revenue Divisional Officer of Sivagangai District, the Tahsildar of Manamadurai Taluk and also the authorities of Mines Department, Sivagangai, to have a field visit and to submit a report. Since no final orders were passed on the petitioner's representation, the petitioner came before this Court by way of filing W.P(MD)No.20175 of 2018 and in which, this Court vide order dated 18.09.2019, directed to consider the representation of the petitioner by fixing a time limit. Thereafter, as the direction of this Court was not complied with, the petitioner filed Cont.P(MD) No.44 of 2020. Pending contempt petition, the respondent after enquiry, passed an order dated 18.08.2020 giving permission to the petitioner to transport the sand and was also directed to remit a sum of Rs.3,82,725/- as seigniorage fee.

(iii) The grievance of the petitioner is that permission was granted to transport the sand from 29.09.2020 to 13.10.2020 ie., for fifteen days. But, when the petitioner started to remove the sand, on instructions from the higher authorities, the Inspector of Police, Manamadurai and the Deputy Superintendent of Police, Manamadurai, rushed to the spot and directed the petitioner's workmen to stop the process of removing sand as a criminal case in Crime No.641 of 2020 on the file of the Manamadurai Police Station was registered as if the sand available in the petitioner's property was suspicious in nature. Thereafter, the Inspector of Police, Manamadurai, on 11.10.2020, dropped the further action of the F.I.R in Crime No.641 of 2020 as there was no *prima facie* materials to sustain the case.

(iv) While the facts are being so, on 02.10.2020, another case was registered against the petitioner, two lorry owners and Drivers, as if the sand was illegally transported from one of the petitioner's lands to another patta land. The said case was registered by the Inspector of Police, Austinpatty Police Station, Tirumangalam, Madurai, on the basis of the complaint given by the Sub-Inspector of Police of the very same police station in Crime No.1762 of 2020. In this process, the original time limit of fifteen days for transporting the used sand granted by the

<https://hcservices.mca2018.in/hcservices/> expired.



(v) According to the petitioner, after getting permission, the petitioner was not able to transport the used sand, which constrained him to give a representation dated 10.10.2020 to the respondent seeking extension of further time to transport the used sand. However, the representation was not considered by the respondent. Therefore, again, the petitioner was constrained to file a writ petition in W.P(MD)No.15106 of 2020 and the same was ordered by directing the respondent to consider the representation within two weeks by making certain observations. However, now the respondent has passed the impugned order rejecting the request of the petitioner stating that permission of the Project Director, Directorate of Sand Quarrying and Monitoring is to be obtained. Hence, this Writ Petition.

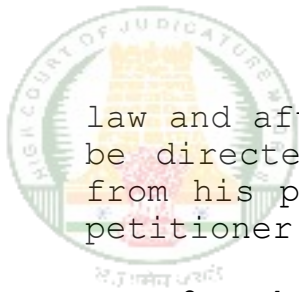
3. No counter affidavit has been filed by the respondent. However, the learned Special Government Pleader appearing for the respondent would state that if the respondent is directed to consider the request of the petitioner, he will be given extension, but, he should not once again come for further extension.

4. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondent and perused the materials produced before the Court.

5. Perusal of the records shows that the petitioner at each and every stage has approached the authorities and this Court for getting remedy. This Court also passed orders. It is also not in dispute that the petitioner has transported the used sand only for two days though permission was granted for fifteen days and only at the intervention of the Inspector of Police, Austinpatty Police Station, the petitioner was not able to quarry the sand and moreover, after receiving the seigniorage fee, again the petitioner was directed to approach another authority.

6. It is an unfortunate case where the petitioner after getting opinion from all the authorities, was granted permission for transporting the used sand and he has also paid a sum of Rs.3,82,725/- and it is not the case of the respondent that the petitioner has transported the sand beyond the time granted to him. But, it is only at the instance of a Inspector of Police, the petitioner was not able to transport the sand after giving permission by the respondent and after paying the seigniorage fee.

7. The rejection order passed by the respondent directing the petitioner to approach the Project Director, Directorate of Sand Quarry Mining and Monitoring, cannot be sustained for the simple reason that as the Project Director was also one of the respondents in the earlier round of litigation and he has not filed any counter to state that that the petitioner cannot transport the sand and getting permission by following the due process of



law and after payment of seigniorage fee, now the petitioner cannot be directed to go from pillar to post for transporting used sand from his patta land to another land, which is also the land of the petitioner.

8. Therefore, considering the above facts and circumstances, the respondent is directed to give permission to the petitioner for transporting the used sand as allowed by them on 18.08.2020 for the days on which the petitioner was not able to transport the sand because of the intervention of the police. While granting such permission, the concerned police shall also not intercept or stop the movement of the vehicle for which the respondent granted permission. It is made clear that the petitioner shall be permitted to transport the used sand only for the remaining thirteen days and the thirteen days period will be excluding the lock down period.

With the above direction, the writ petition is disposed of.
No Costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

Note:(i) 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:

The District Collector,
Office of the District Collector,
Sivagangai,
Sivagangai District.

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-17861[F] dated 28/04/2021)

+1 CC to M/s.SPL GP (SR-17928[F] dated 28/04/2021)

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-18223[F] dated 30/04/2021)

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RK(13.05.2021) 4P 5C

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