



W.P(MD)No.383 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 24.06.2022

DELIVERED ON : 07.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.(MD)No.383 of 2022

and

W.M.P.(MD)Nos.295, 1901, 2790 & 9514 of 2022

K.Thiruvalagu

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The District Revenue Officer,
Sivagangai District,
Sivagangai.

3.The Assistant Director (Geology & Mining),
Sivagangai District,
Sivagangai.



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4.The Revenue Divisional Officer,
Devakkottai Taluk,
Sivagangai District.

5.The Tahsildar,
Devakkottai Taluk,
Sivagangai District.

6.Nagarajan

7.Vairavalingam

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to direct the respondents 1 to 5 to forbear the proposed 'gravel sand' mining in Survey No.259 or the agricultural lands situated around the 'Seethari Kanmai' situated in Survey No.227, Seethari Village, Nedungulam Group, Devakkottai Taluk, on the basis of the petitioner's representation, dated 29.12.2021.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.P.Thilak Kumar
Government Pleader for R1 to R5



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: Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates
assisted by Mr.H.Mohammed Imran
for R6 and R7

ORDER

[Order of the Court was made by **R.HEMALATHA, J.**]

The writ petitioner is a resident of Pookkulam Village, Nedungulam Group, Devakkottai Taluk, Sivagangai District. He filed this writ petition for a writ of mandamus directing the official respondents not to grant permission to the seventh respondent or any other person for gravel sand mining in Survey No.259 of Seethari Village, Nedungulam Group, Devakkottai Taluk or any other agricultural lands situate around 'Seethari Kanmai'(water tank) situated in Survey No.227 of Seethari Village.

2.The grievance of the petitioner is that the seventh respondent, who is cultivating the lands in Survey No.259 of Seethari Village belonging to the sixth respondent is attempting to get a gravel sand mining in the said land. According to the



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petitioner, if the sand mining is permitted in the village, the ground water level and the water level in the tank (Seethari Kanmai) would completely get depleted, thereby, affecting the agricultural operations in the lands in Survey No.224/9, 253/2A, 253/2B, 253/2C and 254/1 of Seethari Village, jointly owned by him and his brother. It is also his contention that the water bodies, namely, Chinna Kanmai and Periya Kanmai in Sengarkovil Village, which is adjacent to Seethari Village got completely affected on account of illegal sand mining and that the entire agricultural operations in that area had come to a stand still.

3. An order of interim stay was granted by this Court on 17.02.2022 at the time of admitting the writ petition. Subsequently, since Mr.P.Thilak Kumar, learned Government Pleader represented that a license to quarry gravel was already granted in favour of the seventh respondent for a period of one year, vide Proceedings in Rc.No.M2/513/2017, dated 28.12.2021, by the Assistant Director of Geology and Mining, Sivagangai, the writ of mandamus was converted into writ of certiorarified mandamus by this Court vide



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its orders dated 10.01.2022. Now, the present writ petition has come up for final hearing.

4. Heard Mr.R.Shankar Ganesh, learned counsel for the petitioner, Mr.P.Thilak Kumar, learned Government Pleader for the respondents 1 to 5 and Mr.M.Ajmal Khan, learned Senior Counsel assisted by Mr.H.Mohammed Imran, for the respondents 6 & 7.

5. Mr.M.Ajmal Khan, learned Senior Counsel contended that the license for a period of one year was granted for mining gravel in favour of the seventh respondent in his leasehold land in Survey No.259 of Seethari Village, after following all the prescribed procedures including the directions/guidelines issued by this Court in W.P(MD)No.20903 of 2016 dated 12.02.2021.

6. In order to substantiate this contention, he filed

(a) a copy of Environmental Clearance, dated 10.02.2020 issued by the State Level Environment Impact Assessment Authority, Tamil Nadu;



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(b)consent order issued by the Tamil Nadu Pollution Control Board in proceedings No.F.1203SVG/RS/DEE/TNPCB/SVG/A/2020, dated 22.04.2020 and

(c)Quarry Lease granted in favour of the seventh respondent dated 28.12.2021 and other connected proceedings.

7. A perusal of these records shows that the Assistant Director of Geology and Mining, Sivagangai, in his proceedings in Rc.No.M2/513/2017, dated 28.12.2021 granted license to the seventh respondent for quarrying and transportation of 64872 m³ of gravel, over an extent of 4.94.50 ha. of patta land in Survey No. 259 of Nedungulam Village, Devakottai Taluk, Sivagangai District, for a period of one year under Rule 19 of the Tamil Nadu Minor Mineral Concessions Rules, 1959, subject to the conditions mentioned in his proceedings.

8. It is pertinent to point out that before granting the said licence, the Assistant Director, Geology and Mining, Sivagangai had scrutinized the following documents:



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(i) Approved Mining Plan and the Environment Clearance obtained from the State Level Environment Impact Assessment Authority-Tamil Nadu (SEIAA-TN).

(ii) Soil Test Report obtained from the department of Civil Engineering, University College of Engineering, Dindigul, for the gravel samples collected from the concerned area.

(iii) Recommendations of Sub-Collector, Tahsildar and Special Revenue Inspector (Mines).

9. Mr.R.Shankar Ganesh, learned counsel for the petitioner mainly contended that the mining operation in the petitioner's village is likely to cause huge water problem as the gravel mining may directly affect the main source of water in Seethari Kanmai, a water tank and also the ground water table in the entire area. This Court is empathetic to the apprehensions of the petitioner. However, the petitioner had not been able to substantiate that,

(i) the neighbouring village had a similar problem, which led to a huge crisis in crop cultivation; and

(ii) this is purely a petition arising out of the public interest wherein efforts were taken by all the farmers in the region to stall



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the licence given for sand/gravel mining.

10. On the other hand, it is to be understood that such licences are given by the authorities, who are aware of the water table level and the potential risk if such mining operations are allowed. When the seventh respondent is doing his business in accordance with law, he is protected by Article 19(1)(g) of the Constitution of India. It is not the case of the petitioner that the seventh respondent is illegally mining.

11. In such circumstances, there is no valid ground to sustain the present writ petition. There also seems to be no public interest involved in this writ petition.

12. In the result, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions are dismissed.

[P.N.P., J.] & [R.H., J.]
07.07.2022

Index : Yes/No
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**P.N.PRAKASH, J.
AND
R.HEMALATHA, J.**

PJL

Predelivery Order made in
W.P.(MD)No.383 of 2022

07.07.2022