



W.P(MD)No.14209 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14209 of 2021

and

W.M.P.(MD)No.11164 of 2021

R.Jawahar

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District.

2.The Superintendent of Police,
Thoothukudi District.

3.The Assistant Director of Mines,
Thoothukudi District,
Thoothukudi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to forbear the Respondents from preventing or interfering with the removal and transporting of copper slag stored in the Petitioner's lands in Meelavittan Part-I Village, Thoothukudi under S.No.100/3, 101/1, 101/2, 101/3, 129/2A, 129/2B, 131/2, 131/3, 97/3B2, 97/3C2, 98/3B, 99/2B and 126 and comprised in Patta No.5851 and 3256.



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For Petitioner : Mr.G.Prabhu Rajadurai.

For Respondents : Mr.P.Thilak Kumar,
Government Pleader.

ORDER

Heard the learned counsel on either side.

2.Copper slag has been stored in the petition mentioned lands belonging to the writ petitioner. He has identified a buyer. He wants to remove the same and transport it. Since the respondents have not given him permission, the present writ petition has been filed.

3.The learned counsel for the petitioner draws my attention to the order dated 01.09.2020 made in W.P.(MD)No.8135 of 2020. The said writ petition was allowed in the following terms:-

“4.I carefully considered the rival contentions and went through the materials on record. The first ground alleged by the respondents is that the petitioner has not registered herself as a dealer under the Tamilnadu Prevention of Illegal Mining Transportation and Storage of Minerals and Mineral Dealers Rules' 2011. Without such valid licence, the petitioner cannot



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seek permission to remove the industrial waste from the petition mentioned land. This reason is incorrect. The petitioner is not dealing in any mineral as such. She only wants to remove the copper industrial waste dumped in her patta land. Therefore, the aforesaid 2011 Rules will not be applicable to the petitioner herein. The first respondent need not feel discouraged by the pendency of the litigation filed by Sterlite Industries. The case on hand has nothing to do with it.

5.As rightly pointed out by the learned counsel appearing for the writ petitioner, the Executive Magistrate directed the petitioner to remove the industrial waste and passed a Statutory order under Section 133 of Cr.P.C and the petitioner only wants to comply with the same. The respondents are not justified in raising any obstruction. I find considerable force in the contention that having directed the petitioner to remove the industrial waste, the respondents cannot now prevent the petitioner from complying with the said direction. Only if the petitioner fails to comply with the direction, the petitioner can be faulted.

6.In view of the above, the impugned order is quashed. The respondents are restrained from preventing the petitioner from removing the copper slag dumped on the petitioner's land and transporting it to the factory premises of Ramco Cements.

7. On the above terms, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.”



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4.For the very same reasons, the present writ petition also deserves to be allowed. The respondents shall not prevent or interfere with the removal and transportation of copper slag stored in the petition mentioned lands.

5.The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

04.08.2022

Index : Yes / No
Internet : Yes/ No
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To:-

- 1.The District Collector,
Thoothukudi District.
- 2.The Superintendent of Police,
Thoothukudi District.
- 3.The Assistant Director of Mines,
Thoothukudi District,
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G.R.SWAMINATHAN, J.

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