



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.1338 of 2015 and
WMP(MD) Nos. 2 of 2015 & 16954 of 2017

R.M.Shanmugavel

...Petitioner

Vs.

1.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

2.The Tahsildar,
Thirupathur,
Sivagangai District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to impugned order dated 03.09.2005 of the first respondent in A1/2871/2003 and 26.12.2014 of the second respondent in Na.Ka.Aa5/17290/2012 and quash the same.

For Petitioner : Mr.J.Anand Kumar

For R1 & R2 : Mr.S.P.Karthick
Government Advocate

O R D E R

This writ petition has been filed by one R.M.Shanmugavel, S/o Ramasamy, as against the notice dated 26.12.2014. The impugned notice was issued by the Tahsildar, Thirupathur, for recovery of a sum of Rs.4,69,040/-. (Rupees Four Lakhs Sixty Nine Thousand and Forty only).

2.Today(01.04.2022), when this writ petition is taken up for hearing, Mr.J.Anandkumar, learned counsel appearing for the petitioner filed a memo stating that the petitioner is no more. He further submits that he is not in a position to identify his legal heirs also. Hence, he requests this Court to dispose of this writ petition with the available materials.



3.Considering the submission made by the learned counsel appearing for the petitioner that the petitioner is no more and any of his legal representatives could not be identified, this Court is inclined to dispose of this writ petition with the available materials.

4.Based on the materials available in the writ petition, it is seen that the petitioner Shanmugavel is the grand son of one Karuppiah S/o Sevugan, who was the owner of the land in Survey No.317/12. With certain allegations that the said Karuppiah had conducted illegal quarry operation, show cause notice was issued by the Sub Collector, Devakottai, on 12.06.2003, based on which, a field inspection was made in the land in Survey No.317/12, Kalapoor Village, Tirupathur Taluk, by the Assistant Geologist, Special Revenue Inspector along with the Village Administrative Officer. Even in the said show cause notice, endorsement was made that the Pattathar Karupaiah died and he did not have any male issues and having only grand son through his female descent and that person is also not in the village. Endorsement made in the show cause notice reveals that the proceedings have been initiated by the Sub Collector, Devakottai even without serving any notice to the land owner Shanmugavel/the petitioner herein, and passed an order imposing penalty, as if the owner of the subject land committed illegal quarry operation.

5. Now, it is also reported that the petitioner is no more and any of his legal representatives could not be identified. In the absence of the petitioner or any of his representatives, a decision was taken by the respondents as if illegal quarry operation had been taken place and they also imposed penalty for a sum of Rs.4,69,040/-. (Rupees Four Lakhs Sixty Nine Thousand and Forty only) and for recovering the penalty amount, the Tahsildar, Thirupattur also issued a show cause notice in the year 2014, under the Revenue Recovery Act and the same is under challenge before this Court.

6.Admittedly, no notice has been issued for the enquiry contemplated under the Mines and Minerals Concession Rules. The order is also not placed before this Court, imposing penalty as against the land owner Karuppiah or Shanmugavel. Since the proceedings were initiated without providing an opportunity to the petitioner or any of his legal representatives and also considering the fact that the petitioner is also no more and his legal representatives could not be identified, this Court is inclined to allow this writ petition. The impugned orders of the first and second respondents in A1/2871/2003, dated 03.09.2005 and Na.Ka.Aa5/17290/2012, dated 26.12.2014 are hereby quashed with liberty to the respondents to conduct a fresh enquiry in the manner known to law, after issuing a notice to the legal heirs and affording an opportunity to them.



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7. Accordingly, this writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vrn

To

1. The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

2. The Tahsildar,
Thirupathur,
Sivagangai District.

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-16010[F] dated 01/04/2022)

+1 CC to M/s.SPL GP (SR-16314[F] dated 04/04/2022)

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MGJ(27.05.2022) 3P 5C