



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD) No.45 of 2015
and M.P. (MD) No.1 of 2015

A.Bose

... Petitioner

versus

1. The Sub Collector,
Sub Collector Office,
Mines & Minerals Department,
Devakottai.

2. The Tahsildar,
Thiruppathur Taluk,
Thiruppathur.

... Respondents

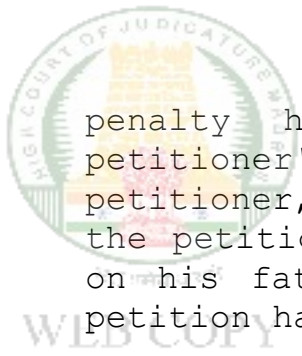
Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in Na.Ka.No.A5/17290/2012 dated 26.11.2014 and to quash the same.

For Petitioner : Mr.A.R.Sethupathy
For Respondents : Mr.S.P.Karthick
Government Advocate

ORDER

This writ petition is filed, challenging the proceedings of the second respondent in Na.Ka.No.A5/17290/2012 dated 26.11.2014, in and by which, the second respondent/Tahsildar, Tiruppathur, has initiated Revenue Recovery Proceedings for recovery of a sum of Rs.1,97,730/- from the petitioner that he is the legal heirs of Alagu, against whom, a penalty was imposed under the Tamil Nadu Mines and Minerals Concession Rules.

2. The learned counsel for the petitioner submits that the Revenue Recovery has been made as if the petitioner's father had illegally 117 lorry loads of gravel from the land in Survey No.71/3A of Kalappoor Village and a penalty was also imposed under the Tamil Nadu Mines and Minerals Concession Rules. According to the petitioner, the land in Survey No.71/3A, is neither belong to him nor to his father Alagu and it belongs to a third party. However, a



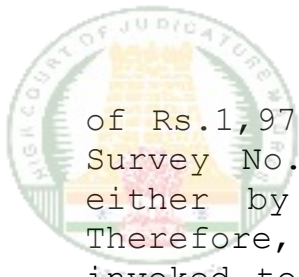
penalty has been imposed fixing certain liability on the petitioner's father and without providing any opportunity to the petitioner, the Revenue Recovery proceedings has been initiated that the petitioner is liable to pay the penalty which has been imposed on his father Alagu. Aggrieved over the same, the present writ petition has been filed.

3. The learned Government Advocate submits that the Tahsildar, Tiruppathur Taluk, inspected the land in Survey No.71/3A in the year 2002 and submitted a report to the first respondent/Sub-Collector, Devakottai, recommending for imposing penalty under Section 36A(1) & (3) of the Tamil Nadu Mines and Minerals Concession Rules, 1959 and based on that report, the first respondent/Sub Collector issued a show cause notice and the petitioner's father Alagu appeared for the enquiry on 06.10.2003 and after enquiry, the first respondent has passed an order in Na.Ka.No.B5/9077/2005 dated 03.09.2005 imposing penalty of Rs.1,97,730/- for illegal quarry of sand from the land in Survey No.71/3A of Kalappoor Village. Since the land owner Alagu has not paid that amount, the notice was issued to the petitioner, who is the legal heir of Alagu and after conducting an enquiry, the Revenue Recovery Proceedings was initiated. The learned Government Advocate has also relied on the letter of Alagu, the petitioner's father, on 13.02.2006, submitted before the Assistant Director of Geology and Mining Department, Sivagangai, admitting that he is the owner of the land in Survey No.71/3A.

4. This Court considered the rival submissions made.

5. The order impugned in this writ petition is the proceedings initiated under the Revenue Recovery Act, for the dues of the petitioner's father Alagu, which was imposed by the first respondent under Section 36A(1)&(3) of the Tamilnadu Mines and Minerals Concession Rules 1959. A proceedings was initiated as against the petitioner's father Alagu in the year 2003 by issuing a show cause notice that the petitioner's father Alagu had illegally transported 117 lorry loads of gravels from his land in Survey No.71/3A of Kalappoor village. The petitioner's father had also appeared for the enquiry and had submitted a letter to the Assistant Director of Geology and Mining Department, Sivagangai that he purchased the land in Survey No.71/3A four years back and even at the time of purchase, the land was found with deep pits and after that, he did not conduct any quarry operation and therefore, he is not liable to pay the penalty imposed by the first respondent under Rule 36A(1) and (3) of the Tamilnadu Mines and Minerals Concession Rules 1959.

6. The first respondent, who conducted the enquiry, passed an order in Na.Ka.No.B5/9077/2005, dated 03.09.2005 imposing a penalty



of Rs.1,97,730/- for the illicit quarry of gravel from the land in Survey No.71/3A of Kalappoor Village. The penalty was not paid either by the petitioner's father Alagu or by the petitioner. Therefore, the proceedings impugned in this writ petition was invoked to recover the amount under the Revenue Recovery Act. The petitioner has filed the present writ petition, without challenging the order passed by the first respondent in Na.Ka.No.B5/9077/2005 dated 03.09.2005, wherein, a penalty was imposed to the petitioner's father. Therefore, the petitioner is not entitled to maintain the writ petition. Further, the petitioner is having an appeal remedy before the District Collector. However, it is not known as to whether the petitioner or his father has preferred any appeal before the District Collector or not. The order of the first respondent/Sub Collector, Devakottai, imposing a penalty under Rule 36A(i) and (iii) of the Tamilnadu Mines and Minerals Concession Rules 1959, has become final. Therefore, the proceedings under the Revenue Recovery Act was initiated for recovery of the penalty due from the petitioner's father.

7. The petitioner's father died in the year 2006 and the petitioner is the legal heir of Alagu, S/o. Savugan. Therefore, this Court is not inclined to interfere with the order of the second respondent dated 26.11.2014. However, it is always open to the petitioner to challenge the order of the first respondent passed in Na.Ka.No.B5/9077/2005 dated 03.09.2005 in the manner known to law.

8. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Sub Collector,
Sub Collector Office,
Mines & Minerals Department,
Devakottai.



2. The Tahsildar,
Thiruppathur Taluk,
Thiruppathur.

WEB COPY

+1 CC to M/s.T.R. SUBRAMANIAN, Advocate (SR-19663[F] dated
20/04/2022)

+1 CC to M/s.SPL.GP. (SR-19769[F] dated 20/04/2022)

+1 CC to M/s.A.R. SETHUPATHY, Advocate (SR-20192[F] dated
21/04/2022)

W.P. (MD) No. 45 of 2015
19.04.2022

CK (CO)

TR(31.05.2022) 4P 6C