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W.P.(MD)No.12001 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2022

CORAM

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

W.P.(MD)No.12001 of 2017

K.Ramesh

.. Petitioner

Versus

- 1.The District Collector,
Collectorate Campus,
Tuticorin District.
- 2.The District Revenue Officer,
Collectorate Campus,
Tuticorin District.
- 3.The Assistant Director,
Mines and Minerals Department,
Collectorate Campus,
Tuticorin District.
- 4.The Divisional Revenue Officer,
Kovilpatti Division,
RDO Office,
Kovilpatti,
Tuticorin District.
- 5.The Divisional Engineer,
Pollution Control Board,
Sipcot Industrial Estate,
Madathur Post,
Tuticorin District.



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6.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Board,
Samathanapuram,
Palayamkottai,
Tirunelveli District.

7.The Tahsildar,
Ottapidaram Taluk,
Ottapidaram,
Tuticorin District.

8.S.Rajendran

9.R.Sundararaj M.L.A.,

10.R.Vijayarajan

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 7 to consider the petitioner's representation dated 22.03.2017 and take appropriate action in accordance with law against the respondents 8 to 10 and also recover the loss of revenue caused by them and pass appropriate orders within a time stipulated by this Court.

For Petitioner : Mr.V.Meenakshisundaram

For Respondents : Mr.R.Ragavendran
Government Advocate for R1 to R7
Mr.N.Anandakumar for R8 & R 10
R9 deleted by order dated 29.06.2017

ORDER

(Order of the Court was made by **R. MAHADEVAN, J.**)

Heard the learned counsel appearing for all the parties and perused the materials placed before this court.



2. According to the petitioner, the lands in S.Nos.608A/1A, 617/3B, 617/3C, 618/2, 619/1, 623, 624, 624/1B, 624/2B, 627, 636 and 724 situated at Ottapidaram Village, Ottapidaram Taluk, Tuticorin District, are classified as "Anatheenam", "surplus lands" and "temple lands" as per the revenue records. It is alleged that the respondents 8 to 10 are involved in quarrying business and are quarrying charal and quartz stones in the lands in S.Nos.622/2A, 622/2B2, 620/1 and 629/2B, for a long time, after getting licence. However, with the political influence of the 9th respondent, the private respondents 8 and 10 are illegally quarrying in the said Government lands as well and also caused damage to the temple lands in S.Nos.627 and 636; and that, they dug many pits to an extent of 40 to 60 feet depth, removed the entire costly quartz stones and supplied the same to Sterlite company and for wind mill projects. It is further alleged that the respondents 8 to 10 have earned more money by selling white stones available in the temple; and that, they have also damaged the water source channels running through the lands in S.Nos.636, 637 and 638 to reach the tank called Periyakulam by quarrying stones. Pointing out the same, the petitioner made a representation to the official respondents on 22.03.2017 to take appropriate action against the respondents 8 to 10 in accordance with law and recover the loss caused by them to the Revenue. However, the said representation has not been considered till date. Therefore, this writ petition in the nature of public interest litigation by the petitioner seeking the relief as sought in his representation dated 22.03.2017.



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3. Along with this writ petition, the petitioner has taken out a miscellaneous petition viz., W.M.P(MD)No.9235 of 2017 for appointment of an Advocate Commissioner to note down the physical features of the subject lands with the assistance of the official respondents and submit a detailed report, enabling this court to come to a conclusion about the illegal activities of the private respondents.

4. This court, by order dated 29.06.2017 in WMP(MD) No.9235 of 2017, appointed one Mr.R.Suresh Kumar, Advocate, as Commissioner and directed him to file a report along with plan, after conducting survey of the subject lands. Accordingly, the Advocate Commissioner inspected, noted down the boundaries with the help of the documents maintained by the Revenue department viz., FMB sketch, 'A' register, patta, etc. and filed a report on 05.12.2017, as per which, there is no encroachment, but an indication of taking quarry stones with mud in some survey numbers.

5. The learned counsel for the petitioner raised objection to the report of the Advocate Commissioner, stating that there was nothing about the white stone temple, which was totally destroyed and the ruins of the same is still there; and that, the particulars to whom the quarry licence was given were not furnished, despite the availability of the revenue records with him. Thus, according to the



learned counsel, due to the illegal quarrying operations of the respondents 8 to 10, the residents of the surrounding area are suffering from multiple environmental problems; and that, the blasting operation exposes serious risk and hazard to their life and properties. Therefore, the learned counsel sought appropriate direction to the respondent authorities in this regard, so as to ensure good revenue to the Government, besides harmony with nature.

6. On the other hand, the learned counsel for the eighth respondent filed a detailed counter affidavit and submitted that in the year 2014, the eighth respondent got licence for quarrying gravel in patta lands in S.F.Nos.620/1 and 629/2B of Ottapidaram Village and Taluk, Thoothukudi District, under Rules 19(1) and 22 of the Tamil Nadu Minor Mineral Concession Rules, 1959 for a period of 3 years subject to the stipulated conditions imposed by the District Collector, Thoothukudi in his proceedings in ROC No.GM1/130/2012 dated 24.02.2014 and hence, he was running the quarry as per the rules and regulations. However, due to political rivalry, false allegations were levelled against the eighth respondent as if he was doing illegal quarrying. Thus, according to the learned counsel, at any point of time, the eighth respondent has not involved in any of the illegal activities, as projected by the petitioner.



7.The learned Government Advocate appearing for the respondents 1 to 7 submitted that the respondent authorities are inclined to conduct necessary enquiry, and pass appropriate orders in accordance with law, with respect to the claim of the petitioner, after inspection, if required.

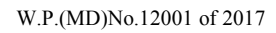
8.At this juncture, it is to be pointed out that mining, as an economic activity, has been in vogue since time immemorial, and has been the driving force of civilization. While mining of resources is indispensable for development, the unsustainable exploitation of the same is legally frowned upon and it is necessary for the State and the permit or lease/license holders to comply with the legal parameters. The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) is the principal legislation which governs the mining of major minerals. The minor minerals as defined under section 3(e) of the MMDR Act and notified by the Central Government, are governed by the Tamil Nadu Minor Mineral Concession Rules, 1959. Initially, there was a lacuna in the minor mineral governance regime, as it did not provide for environmental clearance. It was only after the judgment of the Supreme Court in **Deepak Kumar v. State of Haryana [(2012) 4 SCC 629]**, the State governments were required to assess the environmental impact for all minor mineral projects, irrespective of the extent of the land. Even prior to the environmental clearance, Rule 36(5)(c) of the Tamil Nadu Minor Mineral Concession Rules, imposes a general restriction on quarrying permit holders or lessees to carry



out the quarrying activities in systematic and skilful manner so as to preserve the environment and ecology of the area. Any contravention of the same results in adverse impacts on humanity, ecology and other resources.

9.Keeping the above in mind, considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel appearing for all the parties, this court directs the respondent authorities to conduct enquiry and pass appropriate orders on merits and in accordance with law, after providing sufficient opportunity to all the necessary parties, including the petitioner as well as the respondents 8 & 10, who shall file their version, supportive documents and any other materials, so as to substantiate their claim. Such an exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order. It is needless to state that the authorities shall take necessary steps to curtail illegal mining operations in any of the aforesaid survey numbers and take appropriate action against the person(s) involved in the same.

10.Taking note of the extensive work done by the Advocate Commissioner, the petitioner is directed to pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) towards additional remuneration to him, within a week's time.



is no order as to costs.

17.11.2022

Index : Yes

To

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Pollution Control Board,
Sipcot Industrial Estate,
Madathur Post,
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