



W.P.(MD).No.5036 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **26.09.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD). No.5036 of 2022  
and W.M.P(MD).No.4124 of 2022

R.Saradhabai

... Petitioner

Vs.

1. The District Collector,  
Office of the District Collector,  
Nagercoil,  
Kanyakumari District.
- 2.The Assistant Director,  
Department of Geology and Mining,  
District Collector office campus,  
Nagercoil,  
Kanyakumari District.
- 3.The Tahsildar,  
Kalkulam Taluk,  
Kanyakumari District.
- 4.The Executive Officer,  
Kallukottam Grade I Panchayat,  
Kalkulam Taluk,  
Kanyakumari District.



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...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the first respondent dated 02.08.2021 vide proceedings in Na.Ka.No.50/PuMaSu/2020 and quash the same and consequentially, pass an order directing the first and second respondents to issue necessary permission to the petitioner to quarry the red sand and to level the lands belonging to the petitioner in respect of the lands to an extent of about 10.63 Ares (26.50 cents, comprised in Re-Survey No. 798/3, Kallukootam Panchayat, Lakshmpuram Village, Kalkulam Taluk, Kanyakumari District).

For Petitioner : Mr.G.Aravinthan

For Respondents : Mr.M.Sarangan  
Additional Government Pleader  
for R1 to R3  
Mr.D.Gandhi Raj  
Special Government Pleader for R4  
Mr.M.R.Sreenivasan for R5

### **ORDER**

This Writ Petition has been filed challenging the impugned order passed by the first respondent on 02.08.2021, in and by which, the request of the petitioner to quarry the red sand and level the lands



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belonging to him in Re-Survey No.798/3 situated at Kallukootam Panchayat, Lakshmipuram Village, Kalkulam Taluk, Kanyakumari District, was rejected, based on the objections raised by the fifth respondent, who is the adjacent land owner.

2. The reasoning given by the first respondent, namely, the District Collector, Nagercoil, Kanyakumari District in the impugned order is that the fifth respondent, who is the adjacent land owner of the petitioner, has constructed a cemetery for his father in his land and also planted crops and if the soil in the petitioner's land is removed, the cemetery and the crops planted by the adjacent land owner would be affected. However, it cannot be a reason for rejecting the request of the petitioner to utilize his property. The petitioner is having a constitutional right to utilize his property. On the other hand, the fifth respondent has constructed the cemetery in the agricultural land without any permission from the Competent Authority. Therefore, the first respondent, namely, the District Collector is not expected to pass such order. Hence, the impugned order passed by the first respondent in Na.Ka.No.50/PuMaSu/2020 dated 02.08.2021 is set aside and the first respondent is directed to pass



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appropriate orders permitting the petitioner to remove the soil as per Rule 44 of the Tamil Nadu Minor Minerals Concession Rules, 1959.

3. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**26.09.2023**

Index: Yes/No  
Internet: Yes/No  
ssb

**To**

1. The District Collector,  
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2.The Assistant Director,



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3.The Tahsildar,  
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**B.PUGALENDHI, J.**

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