



W.P(MD)Nos.5921, 6873 and 8066 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.5921, 6873 and 8066 of 2022

and

W.M.P.(MD)Nos.4658, 5283 and 6036 of 2022

W.P.(MD)No.5921 of 2022:-

N.Nagamalai

... Petitioner

Vs.

**1.The District Collector,
Madurai District,
Madurai.**

**2.The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Madurai.**

**3.The Tashsildar,
Madurai North Taluk,
Madurai District.**

4.S.Parameswari

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Na.Ka.No.1222/2019 kanimam



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dated 27.01.2021 on the file of the respondent No.1 and quash the same as illegal and consequently direct the respondent No.1 to permit the petitioner to quarry rough stone in S.No.24/1 of Kachirayanpatti Village, Melur Taluk, Madurai District to an extent of 2 hectares within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel,
For Mr.S.Rajasekar

For Respondents : Mr.SRA.Ramachandran.
Addl. Government Pleader for R1 to R3.
Mr.Sricharan Rangarajan, Senior Counsel,
For Mr.S.Ramsundarvijayaraj for R4.

W.P.(MD)No.6873 of 2022:-

S.Parameswari

... Petitioner

Vs.

- 1.The District Collector,
Office of the District Collector,
Madurai.
- 2.The Assistant Director of Mines,
Office of the Assistant Director of Mines,
Madurai.
- 3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Madurai.
- 4.The Tahsildar,
Office of the Tahsildar,



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Madurai Noth Taluk,
Madurai.

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5. The Revenue Divisional Officer,
Melur Taluk,
Office of the Revenue Divisional Officer,
Melur at Vellaripatti, Madurai.

6. The Tahsildar,
Office of the Tahsildar,
Melur Taluk, Madurai.

7. N. Nagamalai

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, restraining the Respondents 1 to 6 in any way allowing the 7th respondent to run the rough stone quarrying operations in S.No.21 and 24/1 (Part) of Kachirayanpatti Village in Melur Taluk, Madurai and consequently directing the Respondents 1 to 6 to issue license in favour the petitioner as per the legal heir certificate dated 11.12.2020.

For Petitioner : Mr. Sricharan Rangarajan, Senior Counsel,
For Mr. S. Ramsundarvijayaraj.

For Respondents : Mr. SRA. Ramachandran.
Addl. Government Pleader for R1 to R6.
Mr. T. Lajapathi Roy, Senior Counsel,
For Mr. C. Prithviraj for R7.

W.P.(MD)No.8066 of 2022:-

N. Nagamalai

... Petitioner



W.P(MD)Nos.5921, 6873 and 8066 of 2022

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Director of Geology and Mining,
O/o. the Director of Geology and Mining,
Guindy, Chennai.

3.The Assistant Director of Geology and Mines,
O/o. the Assistant Director of Geology and Mines,
Collectorate Campus, Madurai District.

4.S.Parameswari

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, direct the respondents No.1 and 2 to Issue Transport Permits for transporting rough stone Quarries in S.No.24/1 of Kachirayanpatti Village, Melur Taluk, Madurai District to an extent of 2 hectares within the time stipulated by this Court .

For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel,
For Mr.S.Rajasekar.

For Respondents : Mr.SRA.Ramachandran.
Addl. Government Pleader for R1 to R3.

Mr.Sricharan Rangarajan, Senior Counsel,
For Mr.S.Ramsundarvijayaraj for R4.



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COMMON ORDER

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Heard the learned senior counsel for the writ petitioner, the learned Additional Government Pleader for the official respondents and the learned senior counsel for the private respondent.

2.The facts are fairly simple. One Selvam was granted quarry license vide proceedings dated 27.11.2015 by the District Collector, Madurai. The license was valid for a period of ten years. Selvam passed away on 22.04.2018. Unfortunately, Thiru.Nagamalai, the father of the deceased Selvam obtained legal heir certificate by excluding the wife of the licensee. That was questioned by the wife/Mrs.Parameswari. She was successful before the District Collector. The District Collector set aside the legal heir certificate that was originally issued and directed that a fresh legal heirship certificate must be issued in which the mother of the licensee namely, Saraswathi and the wife of the licensee namely, S.Parameswari alone should be shown as legal heirs. The order passed by the District Collector was put to challenge by Thiru.Nagamalai, the father of the licensee in W.P.(MD)No. 16149 of 2020. I had already disposed of the said writ petition in the following terms:-



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“4.I will not fault the first respondent for having passed the impugned order because during the relevant time, G.O.(Ms) No.478, dated 29.09.2022 was not there. However, this Court is obliged to take note of the subsequent developments. Thus, even while sustaining the order impugned in this writ petition, I direct the third respondent to issue a fresh legal heir certificate. The certificate to be issued by the third respondent will contain the following names:-

- (1) S.Parameswari (wife)*
- (2) N.Saraswathi (mother died on 20.08.2018)*
- (3) N.Nagamalai (father)*

Such certificate will be issued by the third respondent within a period of three weeks from the date of receipt of a copy of this order.”

3.The fact remains that as per Hindu Law of Succession, the interest of the licensee would have devolved only on his mother and wife. The mother/Saraswathi passed away six months later. Widow of a predeceased son would also be one of the Class I legal heirs. Thus, following the demise of Saraswathi, her share would devolve on her husband/N.Nagamalai and Parameswari. A simple arithmetic calculation would reveal that in the interest left behind by Selvam, Nagamalai will have 1/4th undivided share and Parameswari will have 3/4th undivided share.



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4.Following the order passed by the District Collector cancelling the original legal heir certificate, the District Collector passed a fresh order on 27.01.2021 cancelling the license itself. As rightly pointed out by the learned senior counsel on either side, now that the issue regarding succession has been resolved, the said order cancelling the license should be consequently set aside. It is accordingly set aside. The first respondent is directed to issue a fresh license which would jointly stand in the names of N.Nagamalai and S.Parameswari. I have already clarified that Nagamalai will have 1/4th undivided share while S.Paramesari will have 3/4th undivided share therein. I can only declare that both the parties will be jointly entitled to operate the quarry. Unless consensus is arrived at between the two, it is not possible for the department to issue any transport permits. Once consensus is arrived between the parties or an order is issued by the competent Civil Court, the department will issue transport permits accordingly.

5.These writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

08.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 13.02.2023



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To:

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1. The District Collector,
Madurai District,
Madurai.
2. The Revenue Divisional Officer,
Madurai.
3. The Tashsildar,
Madurai North Taluk,
Madurai District.
4. The Assistant Director of Mines,
Office of the Assistant Director of Mines,
Madurai.
5. The Revenue Divisional Officer,
Melur Taluk,
Office of the Revenue Divisional Officer,
Melur at Vellaripatti, Madurai.
6. The Tahsildar,
Office of the Tahsildar,
Melur Taluk, Madurai.
7. The Director of Geology and Mining,
O/o. the Director of Geology and Mining,
Guindy, Chennai.
8. The Assistant Director of Geology and Mines,
O/o. the Assistant Director of Geology and Mines,
Collectorate Campus, Madurai District.



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G.R.SWAMINATHAN, J.

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08.02.2023
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