



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Tuesday, the Twenty Fifth day of April Two Thousand and
Twenty Three

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PRESENT

The Hon`ble Mr.Justice C.V.KARTHIKEYAN

WMP (MD) No.5924 of 2023
IN
WP (MD) No.2938 of 2023

WMP (MD) .5924/2023:

JONSY MARY (WRONGLY MENTIONED) ,
JANSY MARY,

... PETITIONER/6th RESPONDENT

Vs

1 THE GOVERNMENT OF INDIA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
MINISTRY OF ENVIRONMENT AND FORESTS WILDLIFE DIVISION,
NEW DELHI

2 THE DISTRICT COLLECTOR
TIRUNELVELI DISTRICT.

3 THE SUB COLLECTOR
CHERANMADEVI, TIRUNELVELI DISTRICT.

4 THE JOINT / ASSISTANT DIRECTOR,
GEOLOGY AND MINING, TIRUNELVELI DISTRICT.

5 THE TASILDAR
NANGUNERI TALUK,
TIRUNELVELI DISTRICT.

... RESPONDENTS/RESPONDENTS

6 K.M.H.MOHAMED HABEEB NAJJAR

... 6th RESPONDENTS/PETITIONER

WP (MD) .2938/2023:

MOHAMED HABEEB NAJJAR K.M.H

... PETITIONER/PETITIONER

Vs

1 THE GOVERNMENT OF INDIA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
MINISTRY OF ENVIRONMENT AND FORESTS WILDLIFE DIVISION,
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TIRUNELVELI DISTRICT.

5 THE TASILDAR
NANGUNERI TALUK,
TIRUNELVELI DISTRICT.

6 JONSY MARY

... RESPONDENTS/RESPONDENTS

Prayer in WMP(MD) . 5924/ 2023 :

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to vacate the stay which was granted by this Hon'ble court by its order dated 14.02.2023 in W.M.P.(MD) No.2725 of 2023 in WP(MD). 2938/2023.

Prayer in WP(MD) . 2938/ 2023 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue of Writ of Certiorari calling for the records relating to the orders passed by the 4th respondent in his proceedings in Na.Ka.No. M2/26268/2022, dated 19.09.2022 and the consequent order passed by the 4th respondent in his proceedings in Rc.No. M2/26268/2018, dated 28.11.2022 and quash the same as illegal.

Prayer in WMP(MD) .2725/2023:

Pleased to Stay the operation and all the further proceedings of the impugned orders passed by the 4th respondent in his proceedings in Na.Ka.No. M2/26268/2022, dated 19.09.2022 and the consequent order passed by the 4th respondent in his proceedings in Rc.No. M2/26268/2018, dated 28.11.2022 pending disposal of the Writ Petition.

ORDER : These petitions coming up for orders on this day, upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr.T.LAJAPATHI ROY, Senior Advocate for M/S. RAJIV RUFUS .V, Advocate for the petitioner in WMP (MD).5924/2023 and for the 6th Respondent in WP(MD).2938/2023 and of Mr.K.R.LAXMAN, Advocate for the 1st Respondent in both Petitions and Mr.K.S.SELVAGANESAN, Additional Government Pleader on behalf of the Respondents No.2 to 5 in both Petitions and Mr.T.A.EBENEZER,



Advocate for the 6th Respondent in WMP(MD).5924/2023 and the Petitioner in WP(MD).2938/2023, the court made the following order:-

The learned counsel appearing for the sixth respondent/petitioner requests time. However, granting of time is being objected by the learned Standing Counsel appearing for the first respondent, by the learned Additional Government Pleader appearing for the respondents 2 to 5 and by the learned Senior Counsel appearing for the petitioner/sixth respondent.

2. This Writ Petition had come up for hearing before my learned Predecessor on 14.02.2023, wherein, the following order was passed:

"The learned counsel for the petitioner states that the site in question is located within the prohibited distance. He draws my attention to paragraph No.9 of the impugned order. It reads as follows:-

"9.The District Forest Officer and Wildlife Warden, Tirunelveli in his letter 9th cited and reported that the proposed quarry site in SF.Nos.13/4(P), 14, 15/2F(P) & 16/3(P) of Pappankulam Village, Nanguneri Taluk, Tirunelveli District located at a distance of 4.40 kms away from the nearest wildlife sanctuary is Koonthankulam Bird Sanctuary and the proposed quarry site falls outside the Eco sensitive Zone Koonthakulam Bird Sanctuary. The distance of the proposed quarry site from the nearby sanctuaries are as follows:-

Sl. No.	Name of the Sanctuary	Distance in Km
1.	Gangaikondan Spotted Deer Sanctuary	41.30
2.	Nellai Wildlife Sanctuary	67.10
3.	Kalakad Mundanthurai Tiger Reserve	22.00

2.Since prima facie has been made out, there shall be an order of interim stay.

3.Notice.

3. The present petition has been filed seeking to vacate the interim stay. A counter affidavit had been filed on behalf of the first respondent, wherein, it has been stated as follows:

"6. It is further submitted that mining of minerals within one kilometer from the boundaries of National Parks and Sanctuaries is prohibited in accordance with the order of the Hon'ble Supreme Court dated 04.08.2006 in the matter of T.N.Godavarman Thirumulpad vs. Union of India in W.P(C).No.202 of 1995 and dated 21.04.2014 in the matter of Goa Foundation vs. Union of India in W.P(C).No.435 of 2012.



7. It is also submitted that as per the petition the Mine lease area is located 4.4 km away from the boundary of the Koonthankulam Birds Sanctuary and, therefore, falls outside Eco-Sensitive Zones and also outside the 1km zonewherever ESZ is less than one km.

8. Based on the aforementioned facts, it is hereby submitted that there is no requirement to obtain recommendations from the Standing Committee of the National Board for Wild Life in the current petition. This is due to the fact that the mine area is situated at a distance of 4.4 kilometre away from the boundary of the Koonthankulam Birds Sanctuary and falls outside the Eco-Sensitive Zone around the Sanctuary."

4. Since the very premise on which stay was granted was found to be not correct and wrongly projected by the petitioner before the learned Predecessor, it is an obligatory that the facts are set right and the interim stay granted on 14.02.2023 stands vacated.

5. Accordingly, this Writ Miscellaneous Petition is allowed.

sd/-

25/04/2023

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/05/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SSB
TO

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WMP(MD)



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5 THE TASILDAR
NANGUNERI TALUK,
TIRUNELVELI DISTRICT.

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+1. C.C. to M/S. RAJIV RUFUS .V Advocate SR.No.6574

+1. C.C. to M/S. T.A.EBENEZER, Advocate SR.No.6688

ORDER

IN

WMP (MD) No.5924 of 2023

IN

WP (MD) No.2938 of 2023

Date :25/04/2023

SA/CG/SAR.1/05.05.2023/5P/8C