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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.02.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P(MD)NO.5364 OF 2019
and
W.M.P(MD)Nos.4272 and 5902 of 2019**

P.Bensingh

:Petitioner

.VS.

1.The District Collector,
Kanyakumari District,
at Nagercoil.

2.The Revenue Divisional Officer(Sub-Collector),
Padmanabhapuram,
Kanyakumari District.

3.The Assistant Director(Mines and Minerals),
Collectorate, Nagercoil,
Kanyakumari District.

4.Shaji

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 3 to stop illegal quarrying at Kulavi Malai Hills also called as Vellimalai Hills at Kalkulam Taluk, Kanyakumari District and consequently to direct the respondents to take action against the



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fourth respondent for the illegal quarrying by considering the representation of the Petitioner, dated 18.01.2019.

For Petitioner	:Mr.S.C.Herold Singh
For Respondents 1 to 3	:Mr.S.R.A.Ramachandran Addl.Govt.Pleader
For Respondent-4	:Mr.G.Prabhu Rajadurai

O R D E R

(Order of the Court was made by D.KRISHNAKUMAR,J)

This Writ Petition is filed seeking issuance of a Writ of Mandamus directing the respondents 1 to 3 to stop illegal quarrying at Kulavi Malai Hills also called as Vellimalai Hills at Kalkulam Taluk, Kanyakumari District and consequently to direct the respondents to take action against the fourth respondent for the illegal quarrying by considering the representation of the Petitioner, dated 18.01.2019.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.This Court by order, dated 11.04.2019 has appointed an Advocate Commissioner to inspect the property in question in which



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quarrying operation has been carried out by the fourth respondent and to file a report before this Court. The Advocate Commissioner has also filed a report by stating that the fourth respondent is quarrying 223407 tonnes of minerals from the quarrying site given lease to him. The fourth respondent has carrying on quarrying operation in the area measured as two portions. The second portion of quarrying operation is comprised in S.F.No.447/3C2, the first portion of quarrying operation is comprised in S.F.No.447/3C2 and 454/2A. The quarrying operation area in the first portion is 12 x 75 x 78 = 70200 cubic meter. The total quarrying operation area is 92,700 cubic metre. The value of the said mineral is Rs. 3,52,26,000/- as per the Government Order in G.O.No.107, dated 6.7.2017, Industries(MMC 2) Department and the value for the mineral per cubic metre is Rs.380/-.

4. According to the private respondent, pursuant to the aforesaid report, the fourth respondent has quarried only to the extent given in lease to him and has not violated any of the terms and conditions of the lease agreement. Further, the fourth respondent has also relying upon the counter filed by the first respondent. In the said counter, it is stated that the first respondent



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has granted five years lease from 29.11.2015 to 28.11.2020. The aforesaid period, as of now got expired. The fourth respondent had been carrying out quarrying operation only on his own patta land in S.F.No.447/3C2, 454/2A of Velimalai Village, Kalkulam Taluk Kanyakumari District and not at all in any other revenue land or private lands. It is further stated that the fourth respondent is using the permissible limit of explosives for carrying out the quarrying operations. Further, the first respondent/The District Collector, Kanyakumari District has filed counter stating that the fourth respondent has carrying out quarrying operations only as per the terms and conditions of the lease agreement and there is no violation of lease granted in favour of the fourth respondent and only after obtaining necessary permission, the said quarrying operation has been done by the fourth respondent and as such there is no violation of terms and conditions of the lease agreement in any angle, as alleged by the Petitioner.

5.Considering the above said facts as revealed from the counter filed by the first respondent/The District Collector, Kanyakumari District, this Court is of the view that the allegation as made by the Petitioner in his Writ Petition, has no substance and



thus, the Writ Petition deserves to be dismissed.

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6. Accordingly, the Writ Petition stands dismissed. There will be no order as to costs. Consequently, connected Miscellaneous Petitions are dismissed.

[D.K.K.,J.] [L.V.G.,J.]
15.02.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No

vsn

To

- 1.The District Collector,
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D.KRISHNAKUMAR, J.

AND

L.VICTORIA GOWRI, J.

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ORDER MADE IN

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and

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