



W.P.(MD)No.20361 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2023

CORAM

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.(MD)No.20361 of 2021**

P.Balasubramanian

... Petitioner

Vs.

1.The District Collector,  
Tuticorin District.

2.The Director,  
Department of Geology and Mines,  
Guindy,  
Chennai – 32.

3.The Deputy Director,  
Department of Geology and Mines,  
Collectorate Complex,  
Tuticorin.

4.The Superintendent of Police,  
Tuticorin District.

5.Murugesan

... Respondents



W.P.(MD)No.20361 of 2021

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 2 and 3 to conduct the inspection and take appropriate action based on the representation of the petitioner dated 21.10.2021 and lodge a complaint before the fourth respondent and with a consequential direction to the fourth respondent to take action based on the complaint of the third respondent.

|                |                                                            |
|----------------|------------------------------------------------------------|
| For Petitioner | : Mr.Porkodi Karnan                                        |
| For R-1 to R-3 | : Mr.K.S.Selva Ganesan,<br>Additional Government Pleader   |
| For R-4        | : Mr.R.Sivakumar<br>Government Advocate<br>(Criminal Side) |
| For R-5        | : Mr.S.Malaikani                                           |

### **ORDER**

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the respondents 2 and 3 to conduct inspection and take action based on the representation made by the petitioner on 21.10.2021 wherein the petitioner has alleged that the fifth respondent was carrying on illegal mining activities in the subject property in Survey No.299/3 at Pudurpandiapuram Village, Ottappidaram Taluk, Thoothukudi District.



W.P.(MD)No.20361 of 2021

2. The case of the petitioner is that he is the owner of the subject property by virtue of a registered sale deed dated 10.10.2014 registered as Document No.3546/2014. The further case of the petitioner is that the revenue records were also mutated and the patta was also granted in favour of the petitioner in patta No.222.

3. The grievance of the petitioner is that the fifth respondent had illegally encroached upon the property and started carrying on illegal mining activities and as a result, he had dug the land to the depth of 20 feet and had carried away the sand. When the petitioner questioned the same, he was also threatened with dire consequences. Under these circumstances, the petitioner made representation to the respondents 2 to 4 and since no action was taken, the present Writ Petition was filed before this Court.

4. The first respondent has filed counter affidavit and the relevant portions in the counter affidavit are extracted hereunder:

*3) With regard to the affidavit of Petitioner, I respectfully submit that, that, the field inspection has been conducted by the 3<sup>rd</sup> Respondent along with Village Administrative Officer, Pudur Pandiapuram village, Ottapidaram taluk. Thoothukudi district on 20.11.2023.*



W.P.(MD)No.20361 of 2021

3) *I respectfully submit that, the Assistant Director of Geology and Mining. Thoothukudi has inspected and taken photographs of the present condition of the above said survey number. In the Inspection report the Assistant Director has confirmed the fact that the soil excavated and transported from the site illegally. The dimension of the illegally quarried pit was 60m length 20m width and 2m depth and approximately 2400 Cubic Metres gravel has been removed. The total value of the mineral is Rs.5,18,400/-.*

4) *I respectfully submit that, the petitioner stated in his affidavit that he had purchased the said land from the 5<sup>th</sup> respondent in 2014 vide Doc no. 3546/2014 but land mentioned in the petition, SF No. 219/3 of Pudur Pandiapuram village, Ottapidaram Taluk, Thoothukudi district has registered in the names of 1) Senthoorathevar S/o Karuppasamythevar, 2) Angusamythevar S/o Vel Thevar 3) Muthaiyathevar S/o. Thalavasamythevar 4) Kamala kannan S/o. Arumugam vide patta no.222 as per village records.*

5) *I respectfully submit that, Section 4(1A) of the Mines and Minerals (Development & Regulation) Act, 1957 stated as follows:*

*i. Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any*



WEB COPY



W.P.(MD)No.20361 of 2021

*tool, equipment, vehicle or any other thing, such mineral tool, equipment, vehicle or any other thing shall be liable to be seized by an officer or authority specially empowered in this behalf as per Section 21(4) of the Mines and Minerals (Development & Regulation) Act, 1957*

*6) I respectfully submit that, in Rule 36-A (1) of the Tamil Nadu Minor Mineral Concession Rules, 1959 stated as follows.*

*“(1)1 [Whenever any person contravenes the provisions of sub-section (1) of section 4 of the Act in any land, enhanced seigniorage fee upto a maximum of fifteen times the normal rate subject to a minimum of 3 (twenty five thousand rupees)]3 shall be charged and recovered from that person by the District Collector or the District Forest Officer as the case may be or in the alternative, he shall liable to be punished as provided in sub-section (1) of section 21 of the Act.”*

*7) I respectfully submit that, the petitioner has mentioned registration numbers of car TN 69 AB 2022, Lorry TN69 Q 2467 (named Vellathai) and those vehicles have not seized by any officers from the illicit quarry located in petitioner's land and the petitioners has not produced any photographic evidences of those vehicles while involving illegal quarrying. Based on the field inspection the illegal quarrying has noticed in the petitioners land.*



W.P.(MD)No.20361 of 2021

*5) I respectfully submit that, the writ petitioner has not produced any documentary evidences to prove the allegations against 5<sup>th</sup> respondent hence identity of the person who has removed gravel from the petitioner's land is not certain. In this context, The Assistant Director of Geology and Mining, Thoothukudi has requested Inspector, SIPCOT Police station to investigate the matter with the petitioner, 5<sup>th</sup> respondent and also pattadars of the said land and also requested to take action against the offenders under Section 379 of IPC and Section 21(4) of the Mines and Minerals (Development and Regulation) Act 1957.*

*In the said circumstances, it is humbly prayed that this Hon ble Court may be pleased dismiss the present petition as devoid of merit and pass such other order as this Hon'ble Court may deem it fit and proper and render justice.*

5. Heard the learned counsel appearing on behalf of the petitioner, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 3, the learned Government Advocate (Criminal Side) appearing on behalf of the fourth respondent and the learned counsel appearing on behalf of the fifth respondent.



W.P.(MD)No.20361 of 2021

6. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 submitted that an inspection was carried out by the third respondent along with the Village Administrative Officer and it was found that illegal mining was carried out in the subject property and nearly 2400 cubic meters of gravel has been removed. That apart, there is a pit measuring 60 meters length, 20 meters width and 2 meters depth. Immediately on coming to know of illegal mining, a complaint was made before the Inspector, Sipcot Police Station to investigate the matter and to take action in accordance with law.

7. The learned Government Advocate appearing on behalf of the fourth respondent submitted that an FIR has been registered in Crime No.104/2023 on 06.12.2023 for offences under Section 379 IPC and 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957 and that the investigation is now pending before the Puthiamputhur Police Station, Thoothukudi.

8. The learned counsel for the fifth respondent relying upon the counter affidavit submitted that there is a title dispute between the petitioner and the fifth respondent and that the fifth respondent has not carried out any illegal mining in the subject property.



W.P.(MD)No.20361 of 2021

WEB COPY

9. In the considered view of this Court, it is quite apparent from the counter affidavit filed by the first respondent that there has been large scale mining that has taken place in the subject property and nearly 2400 cubic meters of gravel has been removed. Going by the magnitude of mining that has taken place, it is clear that the natural resources has been ravished. This requires immediate action on the part of the official respondents. This Court is not interested in going into the title dispute between the petitioner and the fifth respondent and this Court is more concerned about the action to be initiated for illegal mining against the concerned persons.

10. In view of the above, the respondents 1 to 3 shall proceed further to conduct further enquiry and to initiate action for the illegal removal of nearly 2400 cubic meters of gravel against the persons who are involved in such illegal mining. Simultaneously, the Police shall also proceed further with the investigation and complete the investigation and file a final report as expeditiously as possible against the accused persons. In any event, this process shall be completed by the official respondents within a period of three (3) months from the date of receipt of a copy of this order.



W.P.(MD)No.20361 of 2021

WEB COPY

11. This Writ Petition is disposed of with the above directions. No costs.

**07.12.2023**

NCC:yes/no  
Index:yes/no  
Internet:yes/no  
Nsr

To

- 1.The District Collector,  
Tuticorin District.
- 2.The Director,  
Department of Geology and Mines,  
Guindy,  
Chennai – 32.
- 3.The Deputy Director,  
Department of Geology and Mines,  
Collectorate Complex,  
Tuticorin.
- 4.The Superintendent of Police,  
Tuticorin District.



WEB COPY



W.P.(MD)No.20361 of 2021

**N.ANAND VENKATESH, J.**

Nsr

W.P.(MD)No.20361 of 2021

07.12.2023