



W.P.(MD)No.21450 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.21450 of 2021
and
W.M.P.(MD).No.18018 of 2021

Mangalam

... Petitioner

Vs.

- 1.The State Government,
Rep by the Chief Secretary to Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.
- 2.The District Collector,
Office of the District Collector,
Trichy District.
- 3.The Assistant Director,
Mines and Minerals,
Old Collector Office Building,
Trichy District.
- 4.The Superintendent of Police
Office of Superintendent of Police,
Trichy District.



W.P.(MD)No.21450 of 2021

5.The District Registrar (Administration),
No.12, Perumal Koil Street,
Ariyalur District.

6.The Inspector of Police,
District Crime Branch,
Trichy City.

7.The Thasildhar,
Taluk Office,
Lalgudi,
Trichy District.

8.The Village Administrative Officer,
Punchai Sankenthi, Lalgudi Taluk,
Trichy District.

9.KRaja.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 8 to take appropriate steps to restraining the illegal mining operation of the 9th respondent without any valid permission the property owned by the petitioner in SR.Nos. 517/16A1, A2, A3, 603/4 and 604/2 ad measuring total extend of 12 Acres and consequently direct the respondents 1 to 9 to pay the 5 Crores compensation due to loss to the petitioner by wrongful action of the 9th respondent and for in action of the official respondents even after the petitioner's complaint dated on 20.04.2021 and reminders dated respectively on 17.08.2021 and 01.09.2021.



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W.P.(MD)No.21450 of 2021

For Petitioner	: Mr.S.Jayachandran
For R-1 to R-3, R-5, R-7 & R-8	: Mr.A.K.Manikkam, Special Government Pleader
For R-4 & R-6	: Mr.R.Sivakumar, Government Advocate (Criminal Side)
For R-9	: Mr.S.Ramesh

ORDER

When the matter came up for hearing on 27.11.2023, this Court passed the following order:

“This writ petition is filed to take action against the ninth respondent with the allegation that the ninth respondent without any valid permission, is illegally quarrying the lands belonging to the petitioner in Survey No.517/16A1, A2, A3, 603/4 and 604/2 measuring an extent of 12 acres.

2. The second respondent has filed counter affidavit. The relevant portions of the counter affidavit are extracted hereunder:

It is submitted that with respect to para 2 of the Affidavit, one Thiru. Raja, the 9th Respondent herein was granted a lease for quarrying gravel in S.F.No.617/1B and 617/2 of Punjai Sankenthi village of Lalgudi Taluk, Tiruchirapalli District for an



W.P.(MD)No.21450 of 2021

WEB COPY

extent of 1.81.5 hectares vide Proceedings of the District Collector, Tiruchirapalli in Rc.No.30/2013/Mines dated 27.06.2015 for a period of 3 years for a quantum of 35,108 cbm of Gravel. The lease was executed on 04.09.2015 and the lease is valid up to 03.09.2018. Thiru. Raja obtained Environmental Clearance from SEIAA-TN vide letter dated 01.04.2015 for a production quantity of 35,108 cbm of Gravel for a period of three years from the date of executing lease deed. As per the office records of the Assistant Director, Geology and Mining, Tiruchirapalli, Thiru.K.Raja has obtained transport permit of 14,673 cbm of Gravel during the lease period. Subsequently, another lease was granted to Thiru. K. Raja for quarrying gravel in the same area in S.F.No.617/1B and 617/2 for an extent of 1.81.5 hectares of Punjai Sankenthi village of Lalgudi Taluk for a period of three years by the District Collector, Tiruchirapalli vide Proc. Rc.704/2018/Mines dated 27.02.2020 for a quantity of 19,584 cbm of Gravel. The lease period is from 28.02.2020 to 27.02.2023. He was allowed to excavate as per Environmental Clearance quantity of 19,584 cbm for a period of three years from the date of executing lease deed. According to the office records of the Assistant Director, Geology and Mining, Tiruchirapalli, 19,584 cbm of Gravel has been taken during the lease period. Thus, the 9th Respondent, Thiru. Raja was permitted for gravel quarrying in S.F.No.617/1B and 617/2 for a total period of six years. The six-year lease period had been completed and no more quarrying activity is there in these two survey numbers.



W.P.(MD)No.21450 of 2021

WEB COPY

S.No	Lease details	Lease Period	Proceedings of the District Collector	SEIAA approved quantity	Permit obtained
1.	S.F.No.617/1B and 617/2, 1.81.5 hectares PunjaiSankenth i village, Lalgudi Taluk, Tiruchirapalli District	04.09.2015 to 03.09.2018	Rc.No. 30/2013 Mines dated 27.06.2015	35,108 cbm	14,673 cbm
2.	S.F.No. 617/1B and 617/2, 1.81.5 hectares, PunjaiSankenth i village, Lalgudi Taluk, Tiruchirapalli District	28.02.2020 to 27.02.2023	Proc. Rc. 704/ 2018/Mines dated 27.02.2020	19,584 cbm	19584 cbm

5. It is submitted that, meanwhile, Tmt. Mangalam has made a representation to the Assistant Director, Dept. of Geology and Mining, Trichy on 01.09.2021 stating that Thiru.K.Raja had purchased her land in SF No.517/16A1, 517/16A2 & 517/16A3 and 603/4 & 604/2 through forged documents and he has indulged in illegal mining in her land in SF No.517/16A1, 517/16A2, 517/16A3, 603/4 and 604/2 of Punjai Sankenthi village, Lalgudi Taluk, Tiruchirapalli District. Further, she requested to restrain Thiru.K. Raja to stop illegal mining activities from the said land in SF No.



W.P.(MD)No.21450 of 2021

WEB COPY

517/16A1, 517/16A2, 517/16A3, 603/4 and 604/2 of Punjai Sankenthi Village, Lalgudi Taluk, Tiruchirapalli District.

6. It is submitted that, based on the complaint received from Tmt. Mangalam, the Assistant Director, Geology and Mining vide his letter dated 06.09.2021 had requested the Convener, Taluk Level Committee, Lalgudi to take necessary action and submit a report regarding the petitioner's representation. Accordingly, the Tahsildar, Lalgudi vide report dated 10.01.2022 has reported that there is a quarry pit with measurement of approximately 10 to 15 feet in SF No. 517/16A1, 517/16A2, 517/16A3, 603/4 and 604/2 of Punjai Sankenthi Village and also stated that the above said area was water logged during the survey time.

7. It is submitted that, in the meantime, the Hon'ble Madurai Bench of Madras High Court in its orders dated 06.12.2021 granted interim injunction till 22.12.2021 restraining the 9th respondent by way of Injunction to restrain the operation of illegal mining of the property in SF.Nos.517/16A1,A2,A3, 603/4, and 604/2 measuring total extent of 12 Acres. Further, the Hon'ble Court in its judgement dated 22.12.2021 ordered that the interim order already granted is extended till next hearing and the case posted for hearing on 07.01.2022.

8. It is submitted that, the said area was water logged for a period of more than a year and the District officials could not conduct survey in the said areas in order to evaluate the quantum of minerals



W.P.(MD)No.21450 of 2021

WEB COPY

illegally quarried. Further, the Assistant Director, Geology and Mining, Tiruchirapalli has conducted a volumetric survey on 20.07.2023 utilizing the services of Global Mining Solutions, Reg. No.93/36E2, Subramaniyar Kovil Street, Salem, Empaneled agency, authorized by Director of Geology and Mining, Chennai vide letter Rc.No.2921/MM4/2016 dated: 18.03.2023. The Total Station Survey was conducted in the lease granted areas to Thiru.K.Raja in S.F.No. 617/1B and 617/2 and its adjoining areas in SF Nos. 517/16A1, 517/16A2 & 517/16A3 and 603/4 & 604/2. As per the report of the Total Station Survey of the Empaneled agency, a quantum of 89,992 cbm of Gravel has been illegally quarried from the following non-lease hold areas as follows:

Sl. No.	S.F.Nos.	Area in sq.m.	Depth in meter	Volume for Mineral extracted (in CBM)
1.	517/16A1, 517/16A2, and 517/16A3	9331.7	5.25	29,965
2.	603/4 and 604/2	18502.9	7.25	63,027
Total				89,992

After the assessment of the area, the Assistant Director, Geology and Mining, Tiruchirapalli has requested the RDO, Lalgudi to levy penalty as per the TNMMCR, 1959 and the instructions of the Government issued vide G.O (Ms)No.170 Industries (MMC.2) Department Dated 05.08.2020 vide his letter in Rc.No. 637/2021/Mines, dated 17.08.2023. Further, the Assistant Director, Geology and Mining, Tiruchirapalli also requested the RDO, Lalgudi



W.P.(MD)No.21450 of 2021

WEB COPY

to take appropriate criminal action against the offenders indulged in illegal mining activities.”

3. It is illustrated from the counter filed by the second respondent that the ninth respondent was permitted for gravel quarrying in S.F.No.617/1B and 617/2. Taking advantage of this permission, the 9th respondent has done illegal mining activities in the adjacent lands, which are claimed to be the lands of the petitioner. As a result, the 9th respondent has created quarry pit of nearly 10-15 feet in the subject properties and has extracted minerals to the tune of 89,992 CBM of gravel. The affidavit of the second respondent goes to show that there was so much of water logging in the place, where the illegal quarrying was done and no survey was able to be conducted for more than a year by the officials.

4. In light of the specific stand taken by the second respondent in the counter affidavit, it is clear that the 9th respondent has indulged in illegal quarrying in the subject properties. It is stated in the counter that criminal action is going to be initiated against the 9th respondent and others for illegal mining activities.

5. The further case of the petitioner is that the 9th respondent had managed to fabricate documents by creating forged death certificate and legal heirship certificate. To



W.P.(MD)No.21450 of 2021

WEB COPY

demonstrate the same, the death certificate and the legal heirship certificate relied upon by the 9th respondent were placed before this Court. It is seen from these documents that one Annamalai is stated to have died on 13.04.2011 and this date is also mentioned in the legal heirship certificate. However, it comes to the light that the said Annamalai died only on 15.07.2013.

6. The learned Government Advocate (Crl.side) produced the case diary and it shows that the death certificate and legal heirship certificate that were relied upon by the 9th respondent are forged documents.

7. Apart from the above, the 9th respondent has proceeded to rely upon the power of attorney documents, which are also claimed to be forged and fabricated documents, since at the relevant point of time, the son of the petitioner was not even in India and he was in USA. The power of attorney document dated 13.08.2019, cancellation of power of attorney document dated 09.09.2019 and the subsequent power of attorney document dated 10.09.2019 are also stated to have been fabricated by the 9th respondent. These documents formed the basis for the sale deed that was executed in the name of the 9th respondent dated 23.09.2019. These documents are now under investigation before the District Crime Branch Unit-II, Trichy.



W.P.(MD)No.21450 of 2021

WEB COPY

8. *The District Crime Branch Unit-II, Trichy has now ascertained that the death certificate and the legal heirship certificate are forged and they are in the process of ascertaining the genuineness of the other documents. Unfortunately, all these enquires are going on even without registering an FIR.*

9. *In view of the fact that a cognizable offence has been made out, there shall be a direction to the District Crime Branch Unit-II, Trichy to register an FIR immediately and proceed further against the accused persons in accordance with law. Apart from the IPC offences, the offences under the Mines and Minerals Act must also form part of the investigation, since the counter affidavit filed by the District Collector shows that there has been large scale illegal quarrying done by the 9th respondent.*

10. *It is quite apparent from the counter affidavit filed by the District Collector that the ninth respondent has indulged in illegal quarrying for a long period of time indiscriminately. Since the pit of nearly 10-15 feet was found and the water logging continued for more than a year, the authorities were prevented even from surveying the properties. All these illegal activities could not have been done by the 9th respondent without the patronage of the officials. Neither have the officials*



W.P.(MD)No.21450 of 2021

WEB COPY

taken any action till date, nor has the police registered FIR and conducted investigation in accordance with law and that shows the clout of the 9th respondent.

11. Law must be potent enough to operate against the people in power and persons having higher connections and it cannot remain subservient. Law is not meant to be used only against ordinary citizens and it nourishes more power and strength only when it is effectively applied against such people in power and persons with higher contact, whenever they commit a crime or violate any rule or regulation. If law is incapable of handling such powerful persons, it will remain to be a damp squib.

12. This Court is forced to make the above observations with a fond hope that the District Collector, Trichy District will immediately initiate action for the illegal quarrying done by the 9th respondent. Similarly, the District Crime Branch Unit-II, Trichy shall immediately register the FIR and proceed further with the investigation. The progress made shall be informed to this Court during the next date of hearing.

13. The learned counsel for the 9th respondent wanted to file counter affidavit. The same shall be filed before the next date of hearing.



W.P.(MD)No.21450 of 2021

Trichy West and the offence under Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, was also included. During the course of investigation, Accused No.1 was arrested and he is in judicial custody. It is also brought to the notice of this Court that the ninth respondent (Accused No.3) had also filed an Anticipatory Bail Petition and that all steps are being taken to secure the ninth respondent during the course of investigation. The learned Government Advocate further submitted that the investigation will be proceeded further in accordance with law and it will be completed as expeditiously as possible.

4. Mr.C.Mutharasu, Deputy Superintendent of Police, DCB-II, Trichy District, who is the Investigation Officer was also present at the time of hearing in this case.

5. The learned counsel appearing for the ninth respondent submitted that the petitioner is attempting to give a civil dispute a criminal color. In the instant case, the allegations that have been made against the ninth respondent pertains to forgery, impersonation and illegal quarrying of sand and all these allegations are not civil in nature. The action that has



W.P.(MD)No.21450 of 2021

been initiated by the official respondents must proceed further and all persons who are involved in the crime must be brought on Book. The investigation shall be completed in Crime No.38 of 2023 as expeditiously as possible. The Investigation Officer, who was present before this Court undertook that he will effectively conduct the investigation and will proceed against all the accused persons involved in this case.

6. Recording the above submission made by the learned Special Government Pleader and also the learned Government Advocate and the undertaking given by the Investigation Officer, this Writ Petition is disposed of. Insofar as the relief sought for by the petitioner for compensation, the petitioner has to necessarily work out her remedy before the competent Civil Court in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

11.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
tsg



W.P.(MD)No.21450 of 2021

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the State Government,
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W.P.(MD)No.21450 of 2021

N.ANAND VENKATESH, J

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W.P.(MD)No.21450 of 2021

11.12.2023