



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.06.2023

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P (MD) .No.23570 of 2022

and

WMP (MD) No.17638 of 2022

M/s. Greenstar Fertilizers Limited
Rep.by its Vice President,
Corporate Affairs,
Mr.K.Gopalakrishnan

... Petitioner

Vs

1. The District Collector,
Thoothukudi.
2. The District Revenue Officer,
Thoothukudi.
3. The Assistant Director,
Department of Geology and Mining,
Thoothukudi.
4. M/s. Beach Minerals Sands Company,
32/2, Halls Road, Egmore,
Chennai 600 008.

... 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 de-seal and unlock the godown and enable the petitioner to utilize the godown for storing their raw materials and fertilizer products and other materials in the godown in S.No. 272/1A1 Mullakadu Village, Tuticorin.

For Petitioner	:	Ms.A.L.Gandhimathi, Senior Advocate for Mr. C.Mahadevan
For R1 to R3	:	Mr.Veera Kathiravan Additional Advocate General Assisted by Mr.K.Selvaganesan Additional Government Pleader
For R4	:	Mr.H.Arumugam

**ORDER**

The writ petition has been filed in the nature of mandamus, seeking a direction to the first to third respondents to de-seal and unlock the godown at S.No.272/1A1 Mullakadu Village, Tuticorin, which the petitioner claims that he had purchased by document, dated 27.09.2021, executed by the fourth respondent herein. The petitioner seeks permission to use the godown for storing his own fertilizers and other materials.

2. In the affidavit filed in support of the petition, it had been stated that the petitioner had purchased the aforementioned godown, which is property measuring 9.77 acres comprised in the aforementioned survey number together with 1,20,000 sq.ft. of warehouse constructed in the said land, by way of registered sale deed, dated 27.09.2021, registered as Doc.No.3768/21 in the office of Sub Registrar, Office Joint-I, Thoothukudi District.

3. A perusal of the documents shows that the property had been offered as a collateral security to the Federal Bank by the fourth respondent and owing to non-payment of the amount borrowed towards repayment, the property had been brought to auction. Since the petitioner had agreed to purchase the property, the Federal Bank had released the property permitting negotiation of sale of the property to the petitioner by the fourth respondent.

4. It is claimed in the affidavit that the petitioner is an innocent purchaser and it is stated that the godown was empty. But it is also seen that there was a substantial quantity of minerals/sand, which the learned Additional Advocate General can be categorized as atomic mineral present in the surroundings of the godown. The godown as such is empty as on today. Since it is claimed that the godown is empty, the petitioner seeks a mandamus to de-seal and permission to use the godown.

5. It is seen from the report presented by the learned Additional Advocate General that originally the Principal Bench of Madras High Court had *suo-motu* initiated a writ petition in W.P.No. 1592 of 2015, relating to usage and transportation of sand and minerals unlawfully and in this connection, the Division Bench of this Court had also issued directions to seal all the premises, wherever such sand and minerals are found.

6. It had been stated that in this connection, before issuing such order, the Principal Bench had also obtained a report from an IAS officer and it was found that 2446.140 tonnes of garnet, 26704.00 tonnes of semi processed sand and 87 tonnes of processed illuminate has been stored in the said godown, which is



the subject-matter of the present writ petition. The report is forwarded by the Special Committee, which had inspected the godown in the year 2021, again in the year 2022. It was then found that the godown was empty, but 15720.370 tonnes of semi processed sand are kept in the open space surrounding the godown.

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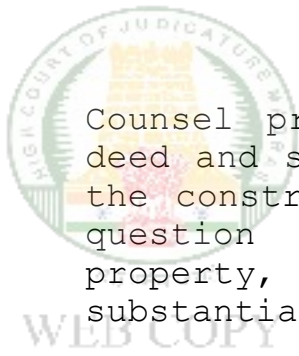
7.It is stated that in this case, for illegally transporting beach sand and mineral, an FIR had been registered by Muthiapuram Police Station against the godown owners under various provisions of Indian Penal Code and it is also stated that a Taluk Level Task Force Committee had been instructed to seal the godown located at Mullakdu Village, Thoothukudi District.

8.It is also been contended in the report forwarded by the learned Additional Advocate General that the outer gate of godown had been closed and sealed by the Taluk Level Task Force Committee and Revenue Divisional Officer, Thoothukudi in the year 2022.

9.It is the contention of the learned Senior Counsel for the petitioner that the petitioner is a bonafide and an innocent purchaser for valuable consideration. It had been stated that when the petitioner inspected the premises, there was no evidence of sand either inside or outside the godown. The petitioner for the purpose of storing own fertilizers had purchased the godown. It is claimed that even if sand or mineral are removed even though godown is sealed, only the fourth respondent is responsible. It is pointed out that the outer wall of entire premises had also been demolished in certain places and theft may be committed by any miscreant. These are the issues beyond the purview of examination of this Court.

10.The petitioner now claims that the Federal Bank had released the property and sale deed has been executed by the petitioner for to use the godown for his own purpose. The representation of the learned Senior Counsel is seriously objected by the learned Additional Advocate General, who pointed out that the petitioner should necessarily get permission from the Division Bench, where the *suo-motu* writ petition is pending, consequent to the direction issued to seal the godown at various places. It is seen from the report that there has been transportation of unlawful minerals, even after the godown is sealed.

11.This Court had wondered as to how the petitioner could have purchased the property in the year 2021, when the godown was not sealed. Definitely the minerals were available not only inside, but also outside the godown. Therefore, this Court sought to examine whether the sale consideration paid by the petitioner includes the cost of the said minerals or not. The learned Senior



Counsel presented a valuation certificate as given in the deed and stated that the sale consideration was paid only towards the constructed portion and the land value alone. But still the question remains as to the reason for the purchase of the property, when it was evident that there are traces of substantial metric tonnes of sand and minerals inside the godown.

12. Viewed from that aspect, it is not possible for me to hold that the petitioner is an innocent purchaser. In fact, he is a speculative purchaser. No doubt, the petitioner had purchased the godown for commercial use, taking advantage of the mortgage with the Federal Bank. After the Bank released the property from its clutches, the petitioner had purchased the property.

13. A perusal of the sale deed does not reflect that the property contains sand and other minerals. These were however found inside and outside the godown, as per the report presented by the learned Additional Advocate General. There had been unlawful transportation of minerals, which issue has to be examined and brought to the notice of the Principal Bench of this Court, where the aforementioned *suo-motu* writ petition is pending. The petitioner should also get necessary permission, particularly, when there is a specific order of the Principal Bench. It appears that, even after inspection quite easily materials were removed from the godown. Though the godown was sealed, no materials are available inside the godown. The compound wall was said to be demolished in various places and thereby, the materials were taken away. The entire act has been done in the teeth of the order of the Principal Bench, where the *suo-motu* writ petition is pending. The claim of the petitioner that he should be permitted to use the godown should be put forth only before the Principal Bench.

14. The learned Senior counsel for the petitioner submitted that the statements of the fourth respondent about the usage and transportation of minerals is not come to the knowledge of the petitioner. It is also contended that the petitioner was not aware about the pendency of the *suo-motu* Writ petition before the Principal Bench. The petitioner should be aware of orders passed to seal the building, consequent to the directions issued by the Principal Bench.

15. The petitioner as a prudent person should have taken necessary steps to enquire all these aspects. Independently filing a writ petition before this Court and seeking a relief cannot be encouraged and should not be entertained by this Court, particularly, since a writ petition is pending before the Principal Bench. It is to be noted that *suo-motu* institution by the High Court of a writ would mean that this Court is also a party to said *suo-motu* initiation of writ petition.



16. Whether the petitioner is an innocent purchaser or speculative purchaser, cannot be examined by this Court. The observations were made only for the purpose of this order and for no other purpose. The petitioner has to approach the Principal Bench, where W.P.No. 1592 of 2015 batch is pending. It would be extremely inappropriate if this Court were to pass any direction, particularly, when the Division Bench has directed sealing of the godown.

17. With the above reasons, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T & P)

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/07/2023

Sub Assistant Registrar(CS)

PNM

To

1. The District Collector,
Thoothukudi.
2. The District Revenue Officer,
Thoothukudi.
3. The Assistant Director,
Department of Geology and Mining,
Thoothukudi.

+1 CC to M/s.C.MAHADEVAN, Advocate (SR-27045[F] dated 09/06/2023)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-27313[F] dated 09/06/2023)

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