



WP(MD)No.13178 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.13178 of 2017
and
WMP(MD)No.10256 of 2017

P.Ravindran

: Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by the Commissioner,
Department of Geology and Mining,
Thiru.Vi.Ka. Industrial Estate,
Guindy,
Chennai – 600 032.
- 2.The District Collector,
Collectorate,
Kanyakumari District.
- 3.The Assistant Director of Geology and Mining,
O/o.Assistant Director of Geology,
Collectorate, Nagercoil,
Kanyakumari District.
- 4.The District Forest Officer,
O/o.District Forest Officer,
College Road, Municipality Campus,
Nagercoil,
Kanyakumari District.



WP(MD)No.13178 of 2017

5.The Superintendent of Police,
O/o.Superintendent of Police,
Kanyakumari District.

6.The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Nagercoil Division,
Kanyakumari District.

7.The Tahsildar,
Agasteeswaram Taluk Office,
Agasteeswaram,
Kanyakumari District.

8.K.Siva

9.S.Kumara Perumal

10.Makesh : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents 2 & 3 to survey using scientific methodology including modern total station surveying technique and quantify the illegal mining and consequently to take action against the respondents 8 to 10 for the illegal mining of Red Sand and Gravel from the petitioner's patta land in an extent of 39 Acre 39 Cents situated at Marungoor Village, Agasteeswaram Taluk, Kanyakumari District, Re Survey Numbers 814/8, 814/10, 814/11, 838, 842/5, 843/1, 843/3, 845/1, 845/3, 848/2, 848/3, 848/4, 848/6, 848/7, 848/8, 848/10, 848/11, 849/1, 878/1, 878/4, 880/1, 880/7, 880/9, 882/2, 882/4, 883/3, 883/5, 883/6, 885/4, 885/7, 885/8, 885/9, 886/2, 886/3, 886/6, 887/1, 887/4, 880/9, 889/3 without any lawful authority in violation of Section



WP(MD)No.13178 of 2017

4(1), 4(1A) and Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, read with Rule 36A(1) of the Tamil Nadu Minor Minerals Concessions Rules.

For Petitioner : Mr.T.Lajapathi Roy,
Senior Counsel
Assisted by
Mr.S.Rajasekar

For Respondents : Mr.N.Ramesh Arumugam,
Government Advocate
for R.1 to R.7

Mr.R.Pon Karthikeyan
for R.8 to R.10

ORDER

The petitioner, with an allegation that the respondents 8 to 10 have illegally quarried red sand and gravel from his patta land, has filed this writ petition seeking a mandamus directing the respondents 2 & 3 to take appropriate action.

2.According to the petitioner, he and his wife are having 15.948 Hectares of patta land in Marugnoor Village, Agasteeswaram Taluk, Kanyakumari District in Re.S.Nos.814/8, 814/10, 814/11, 838, 842/5, 843/1, 843/3, 845/1, 845/3, 848/2, 848/3, 848/4, 848/6, 848/7, 848/8, 848/10, 848/11, 849/1, 878/1, 878/4, 880/1, 880/7, 880/9, 882/2, 882/4, 883/3, 883/5, 883/6, 885/4, 885/7, 885/8, 885/9, 886/2,



WP(MD)No.13178 of 2017

886/3, 886/6, 887/1, 887/4, 880/9, 889/3. The eighth respondent is having 1 Acre 50 Cents patta land in the Marungoor Village R.S.No.887/2 and he obtained permission from the Government for quarrying sand.

3.The case of the petitioner is that the private respondents, with the permit to quarry in the 1 Acre 50 Cents land, have illegally quarried the adjacent properties as well to an extent of 39 Acre 39 Cents, which belong to the petitioner. Due to the illegal quarrying, the petitioner's entire property was destroyed and several coconut, palm, mango and tamarind trees were brought down. Therefore, he has lodged a complaint before the Anjugramam Police Station on 30.04.2017, however, no case was registered. Thereafter, he has made a representation on 03.07.2017 to the authorities to take action as against the private respondents. Alleging that there is no action on his representation, the petitioner has moved this writ petition.

4.Learned Government Advocate appearing for the official respondents has filed a counter affidavit and submitted that the petitioner made an oral agreement with the ninth respondent for selling his lands for a sale consideration of Rs.2,50,00,000/-. In pursuance of the same, the ninth respondent has also



transferred Rs.1,45,00,000/- on various dates, through bank transactions, apart from a sum of Rs.60,00,000/- through cash. However, the sale deed was not executed owing to some disputes between the parties and in order to settle their personal dispute, the writ petition is filed.

5.He further submitted that the petitioner has already executed a document in No.218/2011 dated 05.07.2011 before the Sub Registrar, Edalakudi, granting general power to one Manoharan to quarry red soil over an extent of 10.22.070 Hectares for a period of five years. Based on the consent given by the petitioner, a lease has been granted in favour of the said Manoharan, vide proceedings in Rc.No.216/G & M/2011, dated 21.03.2012. Based on this proceedings, the said Manoharan has quarried the petitioner's land, with his consent. That apart, the petitioner has also entered into a Memorandum of Understanding with M/s.Larsan & Turbo Ltd., for removing the red soil over an extent of 15.644 Hectares of land, for a period of two years @ Rs.45/- per cubic metre. However, the company has not applied for any lease and no permission has been granted to the company by the authorities for quarrying operations. In any event, the red soil was removed by the persons, who were authorized by the petitioner.



6.He further submitted that on the complaint made by the petitioner that the private respondents have illegally quarried his patta land, enquiry was conducted. During the course of enquiry, the authorities came to know about the above facts and thereafter, they have closed the complaint. Since the petitioner has not executed the sale deed, the ninth respondent has also filed a complaint before the learned Judicial Magistrate No.3, Nagercoil and based on the orders of the learned Magistrate, a case has been registered in Cr.No.177/2017, for the offence u/s.403, 406, 420, 506(i) IPC on the file of the Anjugramam Police Station, Kanyakumari District. The case is under investigation. Without referring to any of the above facts, the petitioner has filed this writ petition and therefore, the learned Government Advocate prayed for dismissal.

7.Learned Counsel appearing for the respondents 8 to 10 has also filed a counter affidavit and made his submissions in line with the stand taken by the official respondents.

8.Heard the learned Counsel appearing for the respective parties and perused the available materials.



9. The petitioner, with an allegation that the private respondents have illegally quarried his patta land, has filed this writ petition. But the official respondents have filed their counter affidavit that the petitioner has given general power to one Manoharan for quarrying red soil in his patta lands for a period of five years, based on which, the authorities have given lease for quarrying for a period of three years. That apart, the petitioner has also entered into a Memorandum of Understanding with M/s.Larson & Turbo Ltd for quarrying operations in his patta land. Though the official respondents claimed that the company has not applied for any lease, they concluded that the red soil from the petitioner's land was removed by the persons who were authorized by the petitioner. The respondents have also stated about the transactions between the petitioner as well as the private respondents for the sale of the subject properties.

10. Without referring to the grant of power to one Manoharan for quarrying operations; the execution of a Memorandum of Understanding with M/s.Larson & Turbo Ltd., for quarrying operations; and the case registered and pending in Cr.No.177/2017, the petitioner has filed this writ petition, with a vague allegation that the private respondents have quarried his patta properties.



WP(MD)No.13178 of 2017

11.Since the petitioner has moved the writ petition by suppressing the material facts, this Court expressed its inclination to dismiss the writ petition. At this juncture, learned Counsel appearing for the petitioner, on instructions, intervened and sought permission of this Court to withdraw the writ petition.

12.This Court is not inclined to grant permission to the petitioner to withdraw the writ petition. The writ petition is pending before the Court from the year 2017 and since then, the same is being adjudicated. For the conduct of the petitioner in filing the writ petition by suppressing the material facts and seeking permission to withdraw the petition when the Court was about to dismiss the petition on merits, this Court is inclined to dismiss this writ petition by imposing costs on the petitioner.

Accordingly, this writ petition stands dismissed with a cost of Rs.10,000/- [Rupees Ten Thousand only], payable by the petitioner to Model Girls Higher Secondary School, Ulaganeri, Madurai. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
gk

08.06.2023



WP(MD)No.13178 of 2017

Note:

Mark a copy of this order to
The Headmistress,
Model Girls Higher Secondary School,
Ulaganeri, Madurai.

To

- 1.The Commissioner,
State of Tamil Nadu,
Department of Geology and Mining,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai – 600 032.
- 2.The District Collector,
Collectorate,
Kanyakumari District.
- 3.The Assistant Director of Geology and Mining,
O/o.Assistant Director of Geology,
Collectorate, Nagercoil,
Kanyakumari District.
- 4.The District Forest Officer,
O/o.District Forest Officer,
College Road, Municipality Campus,
Nagercoil, Kanyakumari District.
- 5.The Superintendent of Police,
O/o.Superintendent of Police,
Kanyakumari District.
- 6.The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Nagercoil Division,
Kanyakumari District.



WEB COPY



WP(MD)No.13178 of 2017

B.PUGALENDHI, J.

gk

7.The Tahsildar,
Agasteeswaram Taluk Office,
Agasteeswaram,
Kanyakumari District.

WP(MD)No.13178 of 2017

08.06.2023