



W.P(MD)No.2367 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.06.2024

CORAM :

**THE HON'BLE MR.R.MAHADEVAN, ACTING CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.2367 of 2024
and
W.M.P(MD)Nos.2374, 2375 and 9232 of 2024**

V.Paulraj

... Petitioner

vs.

1. The Additional Chief Secretary to Government,
Water Resource Department,
Secretariat,
Chennai - 600009.

2. The Commissioner,
Commissionerate of Geology and Mining,
Room No. I, Alanthoor Road,
Industrial Estate, Guindy,
Chennai - 600032.

3. The Regional Joint Director,
Directorate of Geology and Mining,
Madurai Region, Vandiyur-625 020,
Madurai District.

4. The Deputy Director of Geology and Mining / Convenor
Governing Council/Managing Committee,
District Mineral Foundation Trust,
Nagercoil, Kanyakumari District.

5. The Assistant Director,
Geology and Mining,



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Nagercoil,
Kanyakumari District.

6. The District Collector,
Nagercoil, Kanyakumari District.

7. The Revenue Divisional Officer,
Padmanabhapuram @ Thuckalay,
Kanyakumari District.

8. The Tahsildar,
Vilavancode Taluk,
Kanyakumari District.

9. A.Bellarmin Jose

10. T.Valsala Kumari

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 6, to forbear the 9th and 10th respondents from doing any further quarrying operation in Survey Nos.409/4A5B, 409/4A5A, 409/4A5C, 409/4A5D, 408/1A, 408/5, 408/1C, 408/1B, 426/3A, 409/4A4, 409/4A3, 409/4A8 at Nattalam 'A' Village, Vilavancode Taluk, Kanyakumari District for violation of terms and conditions of license as well as for violation of Rules and Acts concern.

For Petitioner : Mr.C.Kishore

For R1 to R8 : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.P.Thilakkumar, Government Pleader

For R9 & R10 : Mr.Isaac Mohanlal, Senior Counsel
for Mr.R.S.Sivaram



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ORDER

R.MAHADEVAN, A.C.J.
AND
G.R.SWAMINATHAN, J.

Heard the learned counsel for the writ petitioner, learned Additional Advocate General assisted by learned Government Pleader for the official respondents and learned Senior Counsel appearing for the private respondents.

2. The petitioner is a resident of Mullanginavilai Village in Kanyakumari District. He has been its Panchayat President. He is also a political activist. We are, therefore, satisfied that the petitioner has the *locus standi* to maintain this writ petition.

3. The petitioner's allegation is that the private respondents are engaged in illicit quarrying. When the writ petition was taken up for hearing on 07.02.2024, the following order was passed:

"Alleging that the ninth and tenth respondents are indulged in illegal mining activities in the properties in S.Nos.409/4A5B, 409/4A5A, 409/4A5C and 409/4A5D, the petitioner has approached this Court by way of this Public Interest Litigation.

2.The learned counsel for the petitioner submits that ninth respondent is the owner of the property in Survey No.409/4A5B measuring an extent of 2.66.03 hectares, wherein he was doing quarrying operation from the year 2006 in the name and style of 'Grand Blue Metals'. The tenth respondent is the owner of the property in survey Nos.409/4A5A, 409/4A5C and 409/4A5D, wherein the tenth respondent is



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doing quarrying operation in the name and style of 'V.K.Blue Metals'. Though the ninth and tenth respondents were granted with license for quarrying operation, they are violating the terms and conditions of the licence.

3.The learned counsel for the petitioner further submits that the ninth and tenth respondents become a nightmare for the entire village. The stones were blasting without following the prescribed regulations, thereby there exists noise pollution and air pollution. The quarrying operation and transportation of materials are being carried out in a day and night manner and it is not only affecting the health of the general public but also the agricultural activities in that locality.

4.It is to be noted that the tenth respondent was granted with licence till 2020, thereafter it was not renewed. However, the tenth respondent is still continuing with the quarrying operation. He further submits that the ninth respondent purchased the adjacent lands of the quarry site and doing quarrying operation in that lands also without getting any permission from the authorities concerned. There were many agitations organized as against the illegal quarrying operation of the ninth and tenth respondents and several representations were also made against them. But all the efforts went in vain. Hence, the petitioner has filed the present writ petition.

5.Taking note of the serious allegations raised by the petitioner as against the ninth and tenth respondents, the following directions are issued:

(i)The third and sixth respondents /authorities concerned are directed to inspect the quarrying site in question.

(ii)The authorities concerned shall get the footage of the site by using a drone camera.

(iii)The authorities concerned shall also inspect the adjacent lands of the site to which quarrying licence was granted by the authorities.

(iv)The inspection shall be carried out after informing the date of inspection to the petitioner as well as the ninth and tenth respondents in advance.

(v)The petitioner is directed to be present on the date of inspection.

(vi)The authorities concerned shall file a report along with photographs and to assess the loss for the illegal quarrying operation in the aforesaid sites.

6.The learned counsel for the petitioner is permitted to take private notice on the ninth and tenth respondents.

7.List this matter on 22.02.2024."



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4. On 23.02.2024, the following order was passed:

"According to the report filed by the District Collector, Kanyakumari District that on contacting the drone agency to carry out DGPS Survey, two weeks time is required for drone survey. In order to conduct drone survey and for joint inspection along with Regional Joint Director of Geology and Mining, Madurai and in subsequently for filing inspection, one month time is required.

2. In view of the report filed by the District Collector, this Court grants time and fixes the date for inspection.

3. The inspection shall be conducted between 8th to 12th March, 2024 and to file a report before this Court on 15th March 2024. No further time will be granted. If any delay for such inspection, then this Court will consider the alternate arrangement for conducting the said survey by deputing other expert officials for taking further action.

4. For filing report, post on 15.03.2024 at 2.15 p.m."

5. On 15.03.2024, the following order was passed:

"On 07.02.2024, when the matter came up for hearing, this Court directed the respondents 3 and 6 / authorities concerned to inspect the site in question by using a drone camera and file a detailed report before this Court on the next hearing date to assess the loss caused due to the illegal quarrying operation.

2. Subsequently, when the matter came up for hearing on 23.02.2024, the sixth respondent / District Collector sought further time and at his request, the matter was adjourned to today. Accordingly, this matter is listed today.

3. However, today when the matter was taken up for hearing, the District Collector has not filed any report as directed by this Court by order dated 07.02.2024. It shows that the District Collector is not interested in filing the report before this Court.

4. Apart from the above, it is seen that though notice has been served to all the respondents, none of them have chosen to file counter affidavit.

5. In such circumstances, there shall be an order of ad interim injunction as prayed for by the petitioner for a period of four weeks.

6. Post after four weeks."

6. Pursuant to the aforesaid directions, inspection and drone survey was conducted. The report filed by the official respondents confirms that there has been illegal mining on the part of the



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respondents 9 and 10. Copy of the report has been served on the private respondents and the counsel for the private respondents and a rejoinder has also been filed by them.

7. We have extracted the orders passed by this Court in this writ petition from time to time only to reject the contention of the learned Senior Counsel appearing for the respondents 9 and 10 that the drone survey commissioned by the official respondents should not be acted upon. When this Court had directed that drone survey should be done and the authorities engaged an empanelled agency for conducting the same, it cannot be faulted.

8. The Tamil Nadu Minor Mineral Concession Rules, 1959 governs the field. If the leaseholder commits any violation of the lease terms and conditions or indulges in illicit mining, mechanism has been provided to deal with the same. The District Collector is the authority competent to pass an order. Even though counter affidavit has been filed before us indicting the private respondents, it is clarified that it shall be used only as a basic material to issue show cause notice to the private respondents herein. We direct the 6th respondent to issue notices to the private respondents herein on the basis of the materials



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now made available before this Court. The private respondents are at liberty to satisfy the 6th respondent that there has been no violation of the lease terms and conditions. The respondents 9 and 10 will be at liberty even to make a request for conducting a fresh survey. It is for the District Collector, Kanyakumari District, to take a call in the matter.

9. This Court had earlier granted interim injunction against the respondents 9 and 10 from continuing the quarry operations. The inspection report also confirms the allegation of illicit mining on the part of the respondents 9 and 10. We would, therefore, not be justified in vacating the interim order earlier granted and the same is made absolute. It shall abide by the order to be passed by the 6th respondent. The 6th respondent will issue show cause notice to the respondents 9 and 10 within two weeks from the date of receipt of a copy of this order. The respondents 9 and 10 will be given full opportunity to place their cases before the 6th respondent. The 6th respondent shall pass final orders on merits and in accordance with law, within a period of two months after receipt of the explanation from the respondents 9 and 10.



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10. The Writ Petition is disposed of accordingly. No costs.

Consequently, connected Miscellaneous Petitions are closed.

[R.M.D., A.C.J.] & [G.R.S., J.]
19.06.2024
(1/2)

Index : Yes / No
Neutral Citation : Yes / No
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