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W.P.(MD) No.2978 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD) No.2978 of 2024

and

W.M.P.(MD) Nos.2981, 2983, 2985 & 5909 of 2024

Chinnamari

... Petitioner

-VS-

- 1.The Secretary to Government
Geology and Mining Department
Secretariat, Chennai-600 009
- 2.The Director
Directorate of Vigilance and Anti Corruption
Headquarters, No.293, MKN Road
Alandur, Chennai-600 016
- 3.The Director
Geology and Mining Department
Guindy, Chennai-600 032
- 4.The District Collector cum Chairman of
District Level Task Force for Preventing
Illegal Mining
Sivagangai Collector Office
Sivagangai District-630 562



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- 5.The Revenue Divisional Officer
R.D.O.Office
Sivagangai District-630 561
- 6.The Tahsildar cum Chairmen of
District Level Task Force for
Preventing Illegal Mining
Thiruppuvanam-630 611
- 7.The Deputy Director
Geology and Mining Department
Sivagangai-630 562
- 8.The Executive Engineer
Public Work Department (WRO)
Sivagangai District-630 562
- 9.The Superintendent of Police
Office of the Superintendent of Police
Sivagangai District-630 562
- 10.The Inspector of Police
Poovanthi Police Station
Poovathi-630 611
- 11.The Project Director
National Highway Authority
Madurai to Rameshwaram Road
Karaikudi, Sivagangai District
- 12.Theiventhiran
- 13.Ponnumani

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 and 3 to forthwith prevent the illegal mining activities by the respondents 12 and 13 with their hencemen without any valid permissions in Ryothwari Survey Numbers.179/1A, 97/2, 97/4, 97/5 and 98/1 and nearby agriculture and in Pappakudi Revenue Village, Thiruppuvanam Taluk, Sivagangai District and consequently direct the concern respondents to take actions as per law, spot inspections, report of measurement for illegal mining in fair manner in same survey numbers with involved nearby lands by following the G.O.(Ms) No.62, Home Prohibition and Excise (XVI) Department, dated 01.10.2018, with as per the directions of this Court in W.P.(MD) No.19936 of 2017, dated 29.10.2018, based on the petitioner's representations on 28.01.2024 and consequent representation on 02.02.2024, within a time stipulated by this Court.

For Petitioner : Mr.P.Ponraj

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.P.Thilakkumar
Government Pleader for R1 to R8
Mr.S.S.Madhavan
Government Advocate (Crl.Side) for R9 & 10
Mr.P.Karthick for R11



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ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Prayer in this writ petition is to direct the respondents 1 and 3 to forthwith prevent the illegal mining activities carrying on by the respondents 12 and 13 with their henchmen without any valid permissions in Ryothwari Survey Numbers.179/1A, 97/2, 97/4, 97/5 and 98/1 and nearby agricultural lands, in Pappakudi Revenue Village, Thiruppuvanam Taluk, Sivagangai District and to direct the concerned respondents to take action as per law, conduct spot inspections, file a report regarding measurement of illegal mining, by following G.O.(Ms) No.62, Home Prohibition and Excise (XVI) Department, dated 01.10.2018, and as per the directions of this Court in W.P. (MD) No.19936 of 2017, dated 29.10.2018, based on the petitioner's representations, dated 28.01.2024 and 02.02.2024, within a time stipulated by this Court.

2. According to the petitioner, she is doing agriculture activities in hereditary manner. Her family is cultivating sugarcane and coconut trees, paddy and also horticulture in their own lands in Survey Nos.124 and 124/5B of Kothankulam Revenue Village, Thiruppuvanam Taluk, Sivagangai District.



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Earlier in 2010, they were cultivating paddy crop in Survey Nos.242/4, 242/5 and 248/1 of Pappakudi Village, Thiruppuvanam Taluk, Sivagangai District and subsequently, they are not doing cultivation due to scarcity of ground water.

3. Further, according to the petitioner, the respondents 12 and 13 and their henchmen, without obtaining any permission from the authority concerned, are illegally excavating savudu by deepening the land upto 10 feet in Survey Nos.179/1A, 97/2, 97/4, 97/5 and 98/1 of Pappakudi Revenue Village, Thiruppuvanam Taluk, Sivagangai District and transporting the same for commercial sale in various places without paying proper taxes to the State exchequer. Seeking to take action against the respondents 12 and 13, the petitioner sent a representation to the respondents 1 and 3 on 28.01.2024 and 02.02.2024. However, thereafter, no action was taken by the respondents 1 and 3. Hence, this writ petition.

4. This Court, taking into consideration of the gravity of the issue involved in this case, by order dated 21.02.2024, directed the Project Director, National Highway Authority, Madurai to Rameshwaram Road, to hand over



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the hard disk containing the CCTV footage of the vehicles transporting illegal mining sand through their Toll Gate at Thirupachethi for the period from 31.01.2024 to 12.2024, as alleged by the petitioner, to the District Collector. The District Collector, who is the Chairman of District Level Task Force / fourth respondent was directed to inspect the land in question and examine the CCTV footage produced by the National Highways Authority. The District Collector was also directed to conduct an enquiry with the vehicle owners, whose vehicles are found to have involved in the alleged illegal sand transportation based on the CCTV footage. The petitioner was also directed to appear before the District Collector and submit further documents / materials.

5. Pursuant to the said direction issued by this Court, the District Collector has filed a report dated 12.03.2024 before this Court by stating that he instructed the Deputy Director (Mines) to scrutiny the Hard Disk and the mineral bearing trucks, which passed through Thirupachethi Toll Gate with the despatch slips submitted by the twelfth respondent. Finally, it was found that the time of crossing of the vehicles mentioned in the hardcopy of the transaction details given by the National Highways Authority does not match



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with the timings of the trucks with mineral load crossing the toll gate in the CCTV footage. Though it could be identified that minerals are being transported, the registration number of the vehicles cannot be identified from the CCTV footages.

6. The District Collector, in his report, has further stated that he inspected the subject land on 01.03.2024 along with the Deputy Director (Mines), Tahsildar, Tirupuvanam, Assitant Geologist (Mines), Zonal Deputy Tahsildar, Thiruppuvanam, Revenue Inspector, Tirupachethi, Firka Surveyor, Tirupachethi and Village Administrative Officer, Papagudi and other filed staff. On inspection, it was found that in the permission granted area in S.F.No. 100/2B2, over an extent of 0.37.65 Hectares, reclamation was carried out and coconut saplings were planted and there is no excavation of soil beyond the permitted area. Further, it was found that unauthorized removal and transportation of soil had been carried out in patta lands in S.F.Nos.97/5, 98/1 and 179/1A. The quantum of mineral removed, as reported by the Tahsildar and Assistant Geologist (Mines), were verified and it was found that 20144 cubic meters of soil was excavated and transported without any permission from the said three survey numbers. Further, it was found that



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the alleged S.F.No.97/2 is a barren land and S.F.No.97/4 is noticed with coconut plantations and there is no removal of soil, as alleged by the petitioner.

7. The District Collector has further stated that for the unauthorized removal of soil in S.F.Nos.97/5, 98/1 and 179/1A, *vide* proceedings dated 15.02.2024, he has directed the Revenue Divisional Officer, Sivagangai, to take penal action against the offenders, who indulged in illegal excavation of 20,144 cubic meter of soil from the patta lands, under Rule 36-A of Tamil Nadu Minor Mineral Concession Rules, 1959 and G.O.(Ms) No.170, Industries (MMC.2) Department, dated 15.08.2020. It is further stated that he has given strict instructions to the Village Administrative Officer, Papagudi and Tahsildar, Tirupuvanam, to keep a strict vigil and take necessary action to curb the unauthorized removal and transportation of minerals. He has also instructed the Revenue Divisional Officer, Sivagangai, to expedite the penal action against the offenders without any delay.

8. The District Collector has further stated in his report that pursuant to the directions issued by this Court, the petitioner was informed to



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appear for enquiry on 04.03.2024 at 04.00 p.m., and submit further materials / documents regarding the alleged illegal quarrying activity in Papagudi Village, *vide* proceedings dated 29.02.2024 and accordingly, the petitioner also appeared for enquiry along with her husband and one Advocate. However, she did not submit any material / document and even refused to give statement.

9. A careful perusal of the materials available on record shows that the petitioner alleges illegal transportation of soil by the respondents 12 and 13 from the petition mentioned survey numbers. In order to verify the veracity of the petitioner's allegation, earlier we directed the National Highways Authority to produce the CCTV footage for the period from 31.01.2024 to 12.02.2024 to the District Collector, Sivagangai, who in turn was directed to verify the same as to whether there was any such illegal transportation of sand through Tirupachethi Toll Gate. But, the District Collector has reported that the registration numbers of the vehicles could not be found from the CCTV footage, since the CCTV footage angle was towards the top right corner. Further, the District Collector has also reported that during enquiry, the petitioner has not produced any material / document and even refused to give statement.



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10. At this juncture, it is worthwhile to note that when a *pro bono publico* is filed, the petitioner has to file sufficient materials / documents, at least relevant materials / documents to substantiate his contentions. It is the first and foremost duty rests upon the petitioner. However, in the present case, it is seen that the petitioner has not produced any material either before this Court or before the District Collector, Sivagangai, during the course of enquiry conducted pursuant to the directions issued by this Court. Court cannot conduct a roving enquiry to collect materials in support of the allegations made by the petitioner. In the absence of any materials, the direction as such sought for by the petitioner cannot be granted.

11. Furthermore, we find no material to show that the petitioner has filed this writ petition under the guise of public interest litigation as per the parameters laid down by the Honourable Supreme Court in the case of ***Guruvayoor Devaswom Managing Committee vs. C.K.Rajan***, reported in **(2003) 7 SCC 546** and the subsequent decisions of the Honourable Supreme Court in the case of ***Ashok Kumar Pandey vs. State of West Bengal and others***, reported in **(2004) 3 SCC 349**, ***Neetu vs. State of Punjab***, reported in **(2007) 1 SCC 614** and ***State of M.P. vs. Narmada Bachao Andolan***,



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reported in **(2011) 7 SCC 639**. Therefore, we are not in a position to arrive at a conclusion that there is illegal mining and transportation of soil as alleged by the petitioner. Though we thought it fit to impose heavy cost on the petitioner for filing a *pro bono pulico* without any supporting materials, considering the request made by the learned counsel for the petitioner, we are not inclined to impose cost on the petitioner.

12. In the result, the writ petition is dismissed. However, if the petitioner is having any material in support of her contentions, it is open to her to approach the authority concerned along with the materials and on such an event, it is for the authority concerned to consider the same on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.]

[R.V., J.]

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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