



W.P.(MD)No.8478 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.(MD)No.8478 of 2024

and

W.M.P.(MD)Nos.7668 & 7669 of 2024

Paulraj

: Petitioner

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Department of Revenue & Disaster Management,
Secretariate,
St. George Fort,
Chennai.

2.The Principal Secretary to Government of Tamil Nadu,
Department of Environment, Forest and Climatic Change,
Secretariate,
St. George Fort,
Chennai.

3.The Chairman,
Tamil Nadu Pollution Control Board,
76, Mount Road,
Guindy,
Chennai.



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4.The District Collector,
Pudukkottai,
Pudukkottai District.

5.The District Revenue Officer,
Pudukkottai District.

6.The Superintendent of Police,
Pudukkottai District.

7.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
01, Sipcot Industrial Premises,
Sipcot Post,
Pudukkottai District.

8.K.Selvakumar, B.E.,
District Environmental Engineer,
Tamil Nadu Pollution Control Board,
01, Sipcot Industrial Premises,
Sipcot Post,
Pudukkottai District.

9.The Revenue Divisional Officer / The Monitoring Committee,
Illuppur Post and Taluk,
Pudukkottai District.

10.The Deputy Superintendent of Police,
Keeranur,
Pudukkottai District.



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11.The Tahsildar,
Kulathur,
Pudukkottai District.

12.The Inspector of Police,
Keeranur Police Station,
Keeranur Post,
Pudukkottai District.

13.M.M.Blue Metals,
Rep. by its Sole Proprietor,
M/s.Anita Devayani,
No.619, Vathanakuruchi,
Thirumalairayapuram Post,
Kulathur Taluk,
Pudukkottai District.

14.M.Murugesan : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the 11th respondent to remove the encroachment made by the respondents 13 and 14 and also direct the 7th respondent to take appropriate action including closure of the crusher unit in S.No.128 of Vathanakurichi Village, Kulathur Taluk, Pudukkottai District since it is in violation of distance rule.



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For Petitioner : Mr.P.Ganapathi Subramanian
For Respondents 1,2,4,5,9&11 : Mr.P.Thilak Kumar
Government Pleader
For Respondents 3 & 7 : Mrs.Vijayakumari Natarajan
For Respondents 6, 10 & 12 : Mr.M.Veerenthiran
Government Advocate [Crl. Side]
For Respondent No.14 : Mr.M.Rajarajan
For Respondent No.13 : Mr.G.Prabhu Rajadurai

ORDER

[Order of the Court was made by **R.SURESH KUMAR, J.**]

The present Writ Petition has been filed for a Writ of Mandamus, directing the 11th respondent to remove the encroachment made by the respondents 13 and 14 and also direct the 7th respondent to take appropriate action, including closure of the crusher unit in S.No.128 of Vathanakurichi Village, Kulathur Taluk, Pudukkottai District, since it is in violation of distance rule.

2.The 13th and 4th respondents are the licensed crusher unit operators of stone quarry, which is located at S.No.128 at Vathanakurichi Village, Kulathur Taluk, Pudukkottai District. Against the running of this unit, the present writ petition had been filed by the petitioner, who is also of the same village.



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3. According to Mr.P.Ganapathi Subramanian, learned Counsel appearing for the petitioner, that eventhough the quarrying operations had taken place in the Government poramboke, that was questioned by the petitioner's brother on an earlier occasion in W.P.(MD)No.28714 of 2022, which was considered and decided by the Division Bench of this Court by order dated 19.06.2023.

4. In the said order, the statement given on behalf of the 14th and 15th respondents therein who are the present 13th and 4th respondents were recorded and accordingly, the said writ petition was disposed of, stating that, if any violation takes place at the behest of the said respondents, either in quarrying operation or crushing unit operation, that can be set in motion by raising the issue by the petitioner, who is none other than the brother of the petitioner.

5. At this instance, the grievance of the petitioner is that, eventhough the quarrying operation has been closed, the 13th and 14th respondents continue to carry out the crusher unit operations not only in S.No.128, which is a patta land of the 13th and 14th respondents and also in the adjacent land which according to the



petitioner is a poramboke land. It is the further case of the writ petitioner that, the Pollution Control Board has not given consent or extended the consent already given even for the crusher unit.

6.However, learned Counsel for the 13th and 4th respondents would submit that, it is not only S.No.128, but other survey numbers which are adjacent lands to S.No.128 also belong to the 13th and 14th respondents and totally they own an extent of 30 acres. In this 30 acres, though mainly the crusher unit is located in S.No.128, the peripheral activity for running the crusher unit is taking place in the adjacent land, which also belongs to the 13th and 14th respondents.

7.They would also submit that, insofar as the adjudication raised by the petitioner with regard to extension of the consent given by the Pollution Control Board, having considered for extending consent, the Tamil Nadu Pollution Control Board by proceedings dated 25.03.2024, extended the renewal of consent upto 31st March, 2026 and the copy of this proceedings has been produced before this Court for perusal.

8.Mr.P.Thilak Kumar, learned Government Pleader for the official respondents would submit that insofar as the quarrying operations that have already been undertaken in other lands, they



have completely been stopped or closed. The only activity taking place is the crusher unit with the consent of the Tamil Nadu Pollution Control Board, that too in patta land. Therefore, it cannot be stated that there is violation, whereby the 13th and 14th respondents are undertaking the crushing unit activity not in a Government land or poramboke land other than patta land belonging to them.

9.These rival submissions made by the learned Counsel for the parties having been heard, we feel that, insofar as the allegation that has been made by the petitioner that, there has been no consent given or an extension of the consent already given by the Tamil Nadu Pollution Control Board, the respondents have produced the copy of the extension of consent order dated 25.03.2024, under which the consent has been extended up to 31.03.2026.

10.The other complaints made by the petitioner is that, the 13th and 14th respondents have not confined only with S.No.128, for undertaking their crushing unit activities but they have encroached upon the adjacent Government land where the other peripherals have also been installed.

11.In this context, it is the strong case on the part of the



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13th and 14th respondents as projected by their Counsel that not even an inch of Government land has been used or occupied or encroached for the crushing unit activities of the 13th and 14th respondents. They also added that it is not in S.No.128 but also some other survey numbers which are adjacent lands belonging to the 13th and 14th respondents, to an extent of 30 acres. Therefore, that is more than sufficient for conveniently undertaking the crushing unit activities. Therefore, absolutely there is no iota of proof for the allegations made by the petitioner.

12.Insofar as this statement made by the learned Counsel for the respondents 13 and 14 is concerned, though the learned Standing Counsel for the Tamil Nadu Pollution Control Board has agreed upon and she also stated that the unit is being functioned only in the patta land and there has been no violation in this regard and it has also been supported by the learned Government Pleader for the official respondents, we feel that for the present, no intervening action is required at the hands of this Court against the crushing unit activity undertaken by the 13th and 14th respondents. But on the other hand, if the allegation made by the petitioner is true, action necessarily should be taken to curb such activities beyond the patta land in survey No.128.

13.Therefore, we feel that the Tahsildar concerned as well



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as the District Environmental Engineer of the Tamil Nadu Pollution Control Board shall have a joint inspection to ensure that the crushing activity carried out by 13th and 14th respondents are confined only with their patta land, not necessarily to confine with S.No.128, but any other land or survey numbers belonging to the respondents 13 and 14 and accordingly, if any violation is found out by these officials after such joint inspection, action shall be taken by them.

14.It is open to the petitioner to file statutory appeal, if he is advised to do so, against the proceedings issued by the Tamil Nadu Pollution Control Board dated 25.03.2024.

15.Accordingly, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[R.S.K.,J.] & [G.A.M.,J.]

03.04.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR

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ORDER MADE IN

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