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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.08.2024

PRONOUNCED ON : 29.08.2024

CORAM

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HON'BLE MR.JUSTICE B.PUGALENDHI**

**Rev A Writ (MD)No.220 of 2023
and
W.M.P(MD)Nos.18553 & 22933 & of 2023**

1.P.Sathish Kumar

2.S.Sundaraiah

... Petitioners

Vs.

1.The District Collector,
Tenkasi District, Tenkasi.

2.The Assistant Director,
Geology and Mining,
Tenkasi District, Tenkasi.

3.The State Level Environment
Impact Assessment Authority,
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai – 15.

4.The Revenue Divisional Officer,
T.V.Salai, Sankarankovil,
Tenkasi District.



5.Premkumar
TTV High Tech Chambers,
Ariyur.

6.Rajasekar,
TTV High Tech Chambers,
Ariyur.

7.Thonukaalkulam Neerinaipayanpaduthuvor
Sangam,
Rep.by its President,
S.Karuthapandian S/o.Sangaiya,
South Street, Irumankulam,
Vadakkupudhur,
Sankarankovil,
Tenkasi District.

... Respondents

Prayer: Review Application filed under Order XLVII Rule 1 of CPC to review the impugned order dated 09.08.2023 in WP(MD)No.6407 of 2023 passed by this Court.

For Petitioner : Mr.N.Subramaniam for Mr.G.Mutharasu

For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by Mr.K.Balasubramani
Special Government Pleader for R1 to R4

Mr.N.Anantha Padmanabhan
Senior Counsel for Mr.S.Srikanth
for R5 & R.6

Mr.V.Navaneetha Krishnan for R7



ORDER

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Heard both sides.

2.The Assistant Director of Geology and Mining Tenkasi issued proceedings bearing R.C No.M1/36678/2017 dated 07.09.2020 granting quarry lease in favour of T.Premkumar in respect of the petition mentioned patta lands measuring an extent of 4.76.5 hectares. Questioning the same, Thonukaalkulam Neerinaipayanpaduthuvor Sangam filed WP(MD)No.6407 of 2023. The writ petition was disposed of on 09.08.2023 by us. We declined to quash the quarry lease since no statutory violation was brought to our notice. The process of granting quarry license was also not shown to have been vitiated. During the course of hearing, an undertaking was obtained from the leaseholder that on account of the quarry operations, the natural flow of water into the water bodies will not be impeded in any manner. Contending that an incorrect status report was submitted before us by the officials, this review application came to be filed.



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3. On 05.03.2024, the following order was passed :

“2. The learned counsel appearing for the review applicant alleges that the officials did not present the correct facts before this Court on the earlier occasion and that the true dimensions of the water bodies running in the area in question were suppressed.

3. In order to test the veracity of the allegation, we direct the District Collector, Tenkasi to conduct inspection in the quarry site and the surrounding area and submit a report along with sketch before this Court. Report shall indicate if the Odais found in the original topo sketch combining FMB report are still in existence and whether they have been destroyed on account of quarry operations. It may also be confirmed if the quarry operator is still maintaining the safety distance.”

Pursuant to the aforesaid direction, the District Collector filed status report. It is stated therein that the Odais found in the original topo sketch in Survey Nos. 429, 430/2, 432/1D and 431/1A are not in existence as on date. The region has witnessed quarry operations earlier also. It is quite possible that the odais got obliterated on such operations. It is well settled that a water body should be maintained as such for all times to come. It is the duty of the District Administration to ensure that the water bodies are restored.



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4. We, therefore, direct the restoration of the nilaviyal odais whose existence is mentioned in the original topo sketch. The leaseholder cannot carry on any quarry operations within the prohibited distance. This should address the concerns expressed by the learned counsel appearing for the review applicant. A review application cannot be argued like an appeal in disguise. After a careful perusal of the entire materials on record, we are satisfied that the order disposing of the writ petition does not suffer from any error apparent on the face of record.

5. With this direction to restore the nilaviyal odais that originally existed and a further restraint order imposed on the quarry leaseholder not to undertake any quarrying operations within the prohibited distance, this review application is disposed of. No costs. Connected miscellaneous petitions are closed.

[G.R.S., J.] & [B.P., J.]
29.08.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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- 1.The District Collector, Tenkasi District, Tenkasi.
- 2.The Assistant Director, Geology and Mining, Tenkasi District, Tenkasi.
- 3.State Level Environment, Impact Assessment Authority,
3rd Floor, Panagal Maaligai, No.1, Jennis Road, Saidapet, Chennai –
600 015.
- 4.The Revenue Divisional Officer, T.V.Salai, Sankarankovil, Tenkasi District.



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and

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