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WP No. 36824 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-02-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

**WP No. 36824 of 2024
AND
WMP NO. 39751 OF 2024**

J.Raja
S/o.Jayapal, Chinna Manali Village, Tiruchengode
Taluk, Namakkal District.

..Petitioner(s)

Vs

1. The District Collector
Namakkal District.
2. The Revenue Divisional Officer
Revenue Divisional Office, Tiruchengode- 637
211, Namakkal District.
3. The Tahsildar
Tahsildar Office, Tiruchengode- 637 211,
Namakkal District.
4. The Assistant Director (mines)
Geology And Mining, Namakkal.

..Respondent(s)

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the record pertaining to order no. Na.Ka. NO.6959/ 2004.p, dated 04.04.2005 of the 2nd respondent and



consequential order bearing no.ROC. NO.2448/ 2024/A2 the third respondent dated 13.11.2024 and quash the same.

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For Petitioner(s): Mr.R.Ramesh

For Respondent(s): Mrs.R.LKarthika, GA for R1 To R4

ORDER

This Writ Petition has been filed for the following reliefs:-

“Calling for the record pertaining to order no. Na.Ka. NO.6959/ 2004.p, dated 04.04.2005 of the 2nd respondent and consequential order bearing no.ROC. NO.2448/ 2024/A2 the third respondent dated 13.11.2024 and quash the same.”

2. The petitioner would submit that he is the owner of the agricultural land comprised in Survey No.118/1C (subject property) measuring an extent of 2.26.0 hectares, situate at Chinnamanali Village, Tiruchengode Taluk, Namakkal District. The subject property was bequeathed in favour of the petitioner by his grandmother by way of a registered Will dated 20.09.2018. The petitioner's grandmother, Mrs. Kolandayee, had originally purchased the subject property by way of a registered Sale Deed dated 10.09.1962.



3. The petitioner would further submit that on 08.10.2004, the 2nd respondent had issued a notice to the petitioner's grandmother, calling upon her to explain the alleged quarrying of stones (6411 units) from her land without obtaining prior permission from the competent authority. Subsequently, on 09.02.2005, the 2nd respondent had issued another notice requiring her to appear for a personal hearing on 21.02.2005. On the said date, the petitioner's mother appeared before the 2nd respondent and filed a written submission denying the allegation of illegal quarrying of stones from the subject property. However, without properly considering her explanation, the 2nd respondent passed the impugned order imposing a penalty of Rs.35,90,160/-.

4. After a lapse of 19 years from the passing of the said order, the 3rd respondent, in November 2023, directed the petitioner's grandmother to pay the aforesaid penalty amount on or before 24.01.2023, failing which appropriate action would be taken. In the meantime, the petitioner's grandmother had executed a Will dated 20.09.2019, bequeathing her property in favour of the petitioner, and subsequently passed away on 26.05.2021.

5. The petitioner would further submit that on 24.11.2023, he had filed his explanation to the notice issued by the 3rd respondent, reiterating the



deposition made by his grandmother on 21.02.2005, i.e. when the petitioner's grandmother had purchased the property, the mining pits already existed, and she had only utilized the rainwater accumulated therein for agricultural purposes, without ever using or removing stones. He therefore requested that the proceedings be dropped.

6. Despite this, on 03.06.2024, the 3rd respondent had issued a notice in the name of the petitioner's late grandmother, directing payment of the penalty within 30 days. Thereafter, on 20.08.2024, a Demand Notice was issued to the petitioner's late grandmother, demanding payment of Rs.35,90,160/- with interest at 24% per annum, failing which the subject property would be brought to auction. Upon receipt of the said notice, the petitioner, being the present owner of the property, once again submitted a detailed reply on 11.09.2024, denying the allegation of illegal quarrying and requesting that the proceedings be dropped. However, without considering his reply, the 3rd respondent passed the impugned order in the form of a notice of attachment of immovable property, issued in the name of the petitioner's late grandmother, directing payment of Rs.35,90,160/- with interest within 15 days.

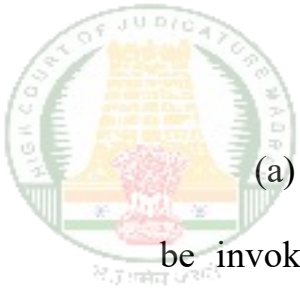


7. In the said impugned notice, the 3rd respondent not only included the petitioner's property bearing S.No.118/1C but also included the property of his father bearing S.No.28/1A. Aggrieved by the same, the petitioner is before this Hon'ble Court.

8. The 3rd respondent had filed a counter affidavit denying the contentions raised by the petitioner, in which the 3rd respondent would justify the impugned order by stating that, as per the provisions of the Tamil Nadu Minor Mineral Concessions Rules, 1959, read with the Tamil Nadu Revenue Recovery Act, 1864, in case of default in payment of the penalty amount, the authorities are empowered to attach the properties of the defaulter and the legal heirs to the extent of the estate inherited by them

9. Heard the rival submission, perused the affidavit, counter affidavit, typed set of papers and the extant rules.

10. The issues placed for the consideration of this Court are :-



(a) Whether the Tamil Nadu Minor Mineral Concession Rules, 1959 can be invoked when admittedly according to the State the stones have been quarried for domestic use?

(b) Whether Revenue Recovery proceedings can be initiated 19 years after the order has been passed imposing penalty on the petitioner?

11. To appreciate the above issues it would be necessary to extract the following Rules from the Tamil Nadu Minor Mineral Concession Rules 1959.

“Rule 17 – Quarrying by the Owner :- A registered holder may quarry free of charge any minor mineral on a small scale for his own use for a specific bonafide domestic or agricultural purpose, provided that he has no intention of continuing quarrying operations indefinitely and provided further that the land is not in any way rendered less fit for cultivation than before.

Rule 18 - [Quarrying on a large scale or for commercial Purposes :- The quarrying of any mineral on a large scale or for other than bonafide domestic or agricultural purposes shall be subject to payment of] [seigniorage fee or dead rent whichever is more and area assessment at such rates as may be specified from time to time, in APPENDIX - II to these rules:]



Provided that this rule shall not apply to quarrying for Government or on behalf of the Government or bonafide public purposes when the compensation paid to the registered holder therefore does not exceed the amount required to restore the land to a state fit for cultivation.

*Proviso Rule 36(1)- [36. General restrictions in respect of quarrying operations :- (1) The quarrying permit holder or the lessee or their men shall not work or carry on or allow to be worked or carried on any mining operations at or to any point within a distance of 50 metres from any railway line except with the previous written permission of the Railway administration concerned or under or beneath any ropeway or any ropeway trestle or station except under and in accordance with the written permission of the authority owning the ropeway or from any reservoir, canal or other public works such as public roads and buildings 2[*****] except with the previous written permission of the Collector of the district or any other officer authorised by the State Government in this behalf and otherwise than in accordance with such instructions, restrictions and conditions, either general or special, which may be attached to such permission. The said distance of 50 metres shall be measured in the case of railway, reservoir or canal horizontally from the outer toe of the bank or the outer edge of the cutting, as the case may be, and in case of building, horizontally from the plinth thereof. In the case of village roads, no working shall be carried out within a distance of 10 metres and except with the previous*



permission of the Collector of the District or any other officer duly authorised by the State Government in this behalf and otherwise than in accordance with such directions, restrictions and additions, either general or special, which may be attached to such permission:

[Provided that notwithstanding anything contained in any law for the time being in force or any provision in any lease deed or agreement already executed under these rules, there shall be no quarrying of sand in any river bed or adjoining are or any other area which is located within 500 metres radial distances from the location of any bridge, water supply system, infiltration well or pumping installation of any of the local bodies or Central or State Government Department or the Tamil Nadu Water Supply and Drainage Board head works or any area identified for locating water supply schemes by any of the above-mentioned Government Departments or other bodies].

Rule 36 A - Penalties: (1) [Whenever any person contravenes the provisions of [sub- section (1) and (1-A) of section 4] of the Act in any land, enhanced seigniorage fee upto a maximum of fifteen times the normal rate subject to a minimum of [twenty five thousand rupees] shall be charged and recovered from that person by the District Collector or the District Forest Officer as the case may be, or in the alternative, he shall liable to be punished as provided in sub- section (1) of section 21 of the Act.]



Section 4(1) and 1A of the Mines & Mineral (Development and Regulations) Act, 1957: Prospecting or mining operations to be under licence or lease.—(1) [No person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or, as the case may be, of a mining lease, granted under this Act and the rules made thereunder]: Provided that nothing in this sub-section shall affect any prospecting or mining operations undertaken in any area in accordance with terms and conditions of a prospecting licence or mining lease granted before the commencement of this Act which is in force at such commencement: 5 [Provided further that nothing in this sub-section shall apply to any prospecting operations undertaken by the Geological Survey of India, the Indian Bureau of Mines, [the Atomic Minerals Directorate for Exploration and Research] of the Department of Atomic Energy of the Central Government, the Directorates of Mining and Geology of any State Government (by whatever name called), and the Mineral Exploration Corporation Limited., a Government company within the meaning of [clause (45) of section 2 of the Companies Act, 2013 (18 of 2013), and any such entity that may be notified for this purpose by the Central Government]: [Provided also that nothing in this sub-section shall apply to any mining lease (whether called mining lease mining concession or by any other name) in force immediately before the commencement of this Act in the Union territory of Goa, Daman and Diu.] [(1A) No person shall transport or store or



cause to be transported or stored any mineral otherwise than in accordance with the provisions of this Act and the rules made thereunder.]

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12. It would be also necessary to extract the following provisions of the Revenue Recovery Act as well :-

“Section 25 - Demand to be served prior to attachment of land.-Mode of service:- Before a Collector, or other officer empowered by the Collector in that behalf, proceeds to attach the land of the defaulter or buildings thereon, he shall cause a written demand to be served upon the defaulter, specifying the amount due, the estate or land in respect of which it is claimed, the name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment, which shall be fixed with reference to the distance from the land on which the arrear is due to the place at which the money is to be paid. Such demand shall be served by delivering a copy to the defaulter; or to some adult male member of his family at his usual place of abode, or to his authorised agent, or by affixing a copy thereof on some conspicuous part of his last known residence, or on some conspicuous part of the land about to be attached.

Section 26 - Procedure when defaulter neglects to pay:- When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into, to the



satisfaction of the Collector, or other officer empowered by the Collector in that behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulter's land in the following manner.

Section 27 - Mode of attachment:-The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land. The notice shall set forth that unless the arrear, with [13][penalty] and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law. The attachment shall be notified by public proclamation on the land, and by publication of the notice in the District Gazette.”

13. It would also be useful to extract a few dates and events:-

(i) **10.09.1962:** Property in question purchased by Petitioner's grandmother Kolandayee;

(ii) **08.10.2004:** 42 years after the purchase, 2nd respondent issues show cause notice under Section 36A;

(iii) **09.02.2005:** Enquiry notice stating that enquiry would be held on 21.02.2005 at 11 AM;

(iv) **21.02.2005:** Explanation of Kolandayee, denying the quarrying and stating that no inspection of the lands had been done;



(v) **04.04.2005**: Order of the 2nd Respondent;

(vi) **-11.2023**: 3rd Respondent's notice to Kolandayee informing that the 2nd respondent had ordered recovery of the penalty.

(vii) **03.06.2024**: Notice to Kolandayee stating that by the proceedings of 1st respondent dated 12.01.2024 and 14.07.2024 to initiate Revenue Recovery proceedings if the penalty amount of Rs.35,90,160/- is not paid within 30 days.

(viii) **13.11.2024**: Notice of sale.

14. A perusal of the order dated 04.04.2005 would reveal that the same has been passed on account of the fact that the owner of the land Late Kolandayee had used the stones quarried from the land for the purpose of putting up a bund and well in her agricultural land. Therefore, even as per the said order the stones have been used for her own domestic agricultural work. Further, the order does not spell out as to when Late Kolandayee had quarried the lands, when the inspection had taken place and how the authorities have arrived at the quantity of the stone quarried. Rule 17 of the Rules provides that a "Registered Holder" (persons in whose name the land is registered – Rule 2(8)] can quarry free of charge minor minerals on a small scale for his own bona fide domestic or agricultural purpose. A reading of Rule 18 further shows that no seigniorage fee or dead rent is payable in the case of quarrying for bona fide domestic or agricultural purpose. Rule 36 A which has been invoked by the



respondents relates to penalties in case of the contravention the provisions of Section 4(1) and (1A) of the Mines and Minerals (Development and Regulation) Act 1957 relates to prospecting or mining on large scale mining operation.

15. Therefore, the very invocation of the provisions of the Rules is totally misconceived. The impugned order does not state that the stones were quarried for large scale operations. The allegations in the impugned order dated 04.04.2005 is that these stones were quarried for domestic/agricultural use without permission. The registered owner, late Kolandayee in her explanation has totally denied the quarrying. Therefore, in the light of the above discussions issue (a) has to be answered against the respondents by holding that the Rules will not apply to the case of quarrying for domestic/ agricultural purpose.

16. The next issue [though not applicable to the case on hand in view of the finding in respect of issue (a)] relates to limitation. The order under Rule 36 A of the Rules has been passed on 04.04.2005 and proceedings under the Revenue Recovery Act has been initiated only in the year 2024. The Hon'ble Supreme Court in the judgment reported in the case of ***State of Kerala and others vs. V.R.Kalliyankutty and another*** – 1999 (3) SCC - 657 was considering the issue of limitation in respect of proceedings being initiated



under the Kerala Revenue Recovery Act, (here in after called as the “Kerala RR Act”) to recover a debt which is barred by limitation. In that case the Government of Kerala in exercise of the powers conferred on them under Section 17 of the Kerala RR Act made the provisions of this Act applicable to loans given by Bank for agricultural purposes and the loans given by the Kerala Financial Corporation. The Learned Judges examined the issue as to whether time barred claims of the State Financial Corporation and the Banks could be recovered by invoking the provisions of the Kerala RR Act. They discussed the terms “amount due” and after referring to its dictionary meaning and the comments appearing for the word “due” held that these words would means amounts which a creditor has a right to recover thereby excluding time- barred debts. The Hon’ble Supreme Court observed that the Kerala RR Act would only provide an alternate mode of recovery, instead of filing a suit, debt is sought to be recovered by invoking the provisions of the RR Act. Ultimately, the learned Judges observed as follows :

“18. In the premises under Section 71 of the Kerala Revenue Recovery Act claims which are time-barred on the date when a requisition is issued under Section 69(2) of the said Act are not "amounts due" under Section 71 and cannot be recovered under the said Act. Our conclusion is based on the interpretation of Section 71 in the light of the provisions of the Kerala Revenue Recovery Act.”



17. Therefore, the Hon'ble Supreme Court observed that where notice for recovery was issued in respect of a time barred debt the same cannot be recovered.

18. The Hon'ble Kerala High Court in the judgment reported in the case of ***AK.Nanu and Ors Vs. State of Kerala and others– 1987 KLJ 1486*** was also considering the issue of limitation in respect of proceedings being initiated under the Kerala Revenue Recovery Act. The relevant portion of the judgement is extracted herein below as follows:-

“ 8. In the absence of a provision creating a substantive right to recover time-barred debts, the Act providing for summary recovery does not avail once the period prescribed for recovery under the Limitation Act has expired. The Act only provides for easy recovery, not recovery at any time. Time is necessarily limited, unless of course the legislature provides to the contrary. The question in each case is whether the statute in question has created a substantive right or liability providing, in respect of a debt, a period of limitation different from what is prescribed under the Limitation Act or has altogether removed the bar of limitation in respect of such a debt. If the answer were to be in the affirmative, the banks counsel would be right in his submission on the point. But we do not read the relevant provisions of the Act creating any



such right. The Act creates a special procedure, but not a substantive right to overcome limitation. As stated by the Lahore High Court in Sri Narain Vs. Union Bank of India MANU/LA/0049/1922 : AIR. 1924 Lahore 53 and cited with approval by the Privy Council in Hansraj Gupta V. Dehra Dun Mussourie Electric Tramway Co. Ltd. MANU/PR/0060/1932 : [1933] 3 Comp Cas 207 : AIR 1933 PC 63:”

19. In the case on hand, the penalty has been imposed in the year 2005 and this is the debt that is sought to be recovered by invoking the provisions of the Tamil Nadu Revenue Recovery Act, which is in pari materia to the Kerala RR Act, nearly 19 years after debt fell due.

20. In the case of a decree for money, the period within which the same has to be executed is 12 years from the date it falls due as per Article 136 of the Limitation Act. The order dated 04.04.2005 which is analogous to a money decree, would read that the debt was payable immediately. Therefore, the debt becomes enforceable from 04.04.2005. As a result, the revenue recovery proceedings initiated in the year 2024 is clearly barred by limitation. Therefore, issue (b) should also be answered against the respondents. In the light of the



discussion and finding in respect of issue (a), the discussion on this issue is purely academic.

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21. In fine, the writ petition is allowed as prayed for. No costs.
Consequently, the connected Miscellaneous Petition are closed.

24-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

SHR

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Namakkal District.
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