

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.10.2006

Coram :

THE HONOURABLE MR.JUSTICE K. RAVIRAJA PANDIAN

Writ Petitions Nos.10386, 10387 and 10396 of 2000

Adaikkalameri

Petitioner in W.P.  
No.10386 of 2000

S.Jayaraman

Petitioner in W.P.  
No.10387 of 2000

S.Chellakannu

Petitioner in W.P.  
No.10396 of 2000

v.

1. The Director of Geology,  
Guindy, Chennai 600 032.

2. The District Collector,  
Madurai District.

3. The Assistant Director of Mines,  
Madurai District.

Respondents

Writ Petitions filed under Article 226 of the Constitution of India for the issue of writ of certiorarified mandamus as stated in the petitions.

For Petitioner : Mr.K.Ravi Anantha Padmanabhan

For Respondents : Mr.R.Thirugnanam,  
Special Government Pleader

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ORDER

The writ petitions are filed praying for issuance of writ of certiorarified mandamus to call for the records of respondents 1 and 2; quash the order passed by the first respondent dated 15.03.2000, 27.03.2000, 27.03.2000 vide proceedings Rc. No.281/MM5/98, 283/MM5/98, 282/MM5/98 upholding the orders of the second respondent - all dated 12.12.1997 vide proceedings in ROC No.2412, 2411, 2424/M/97 levying the total penalty of Rs.3,00,396/-, Rs.2,92,048/- and Rs.4,01,228/- respectively and consequently direct the second respondent, who levied the penalty to refund the said amount with 12% interest per annum from 12.12.1997 till the date of actual payment to the petitioner.

2. The facts of the case, as stated by the petitioners, is that the petitioners are transport operators and each petitioner owns a lorry bearing registration numbers TN55 B 4878, TNP 8190 and TN 59 D 5455 respectively. The first two lorries were hired by one Baskaran and the third one was hired by one Durai Divyanathan, who were quarry lease holders for transportation of granite blocks of various dimensions from Pudukottai to Tuticorin under the cover of transport permits issued by the Assistant Director of Mines, Pudukottai and also the Form XX issued by the Commercial Tax Officer, Pudukottai for transportation of granite blocks to Tuticorin port. While the vehicles were driven by the respective drivers of the petitioners' lorries, at Othakadai near Madurai, the third respondent Assistant Director of Mines, Madurai District intercepted the lorries and verified the documents and seized the vehicles on the premise that there are discrepancies in the measurement of dimensions of the granite blocks transported in that vehicle and even the variety of the granites is also in variance, and the documents issued by the Mines Department and the Commercial Taxes Department were contrary to each other and on that basis, the second respondent, the District Collector issued notices to the petitioners and thereupon passed a final order imposing penalties in a sum of Rs.3,00,396/-, Rs.2,92,048/- and Rs.4,01,228/- respectively, and the petitioners were threatened that unless the amounts are paid, the lorries would not be released and the lorries had been stationed before the third respondent for more than 15 days. The petitioners, in order to get the vehicles released, paid the amounts and got the lorries as well as the goods released from the respondents and unloaded the granites at the place of the lessees. As the orders passed by the second respondent, the District Collector, in the opinion of the petitioners, were not in accordance with law, they carried the matter on appeal to the first respondent, the appellate authority under the Tamil Nadu Minor Mineral Concession Rules, who, by his orders impugned in these writ petitions, confirmed the orders of the District Collector. The correctness of the said orders is now put in issue in this writ petition.

3. Learned counsel for the petitioners submits that it is the lessees who hired the vehicles for transportation of granite blocks from Pudukottai to Tuticorin Port and handed over necessary transport permits and Form XX issued by the Commercial Tax Officer. The bulk permits as well as the transport permits were issued by the Assistant Director of Mines for transportation of mineral to Tuticorin for export. While that being so, if at all there is any variation between the dimension of the goods transported and the dimension noted in the transport permits and also if at all there is any variance in the category and colour of the granites transported than that were found in the papers, it is the lessees who were quarry lease holders and who engaged the services of the petitioners' lorries, are responsible, and not the petitioners. It is not the only occasion, the respondent authorities are seizing the vehicles, but invariably all the vehicles carrying the granite blocks with all required permits have been detained for the reasons best known to the authorities and the respondents are harassing the transporters. It is further contended that the petitioners being

transport operators, cannot be fastened with the liability under the provisions of the Act.

4. Heard the learned counsel for the petitioners and perused the materials available on record.

5. I am not able to accept any one of the contentions raised by the learned counsel for the petitioners for the simple reason that the statutory provisions otherwise provide for. Section 4(1A) of the Mines and Minerals (Regulation and Development) Act, 1957 provides that no person shall transport or store or cause to be transported or stores any mineral otherwise than in accordance with the provisions of the Act and Rules made thereunder. Section 21(4) of the Act, 1957 contemplates that whenever any transporter raises, transports or causes to be raised or transported without any lawful authority, any mineral from any land, and for that purpose, uses any tool, equipment, vehicle or any other thin shall be liable to be seized by an officer or authority specially empowered in this behalf. Section 21 further provides for confiscation of the vehicle and recovery of the value of the mineral along with penalty in the form of enhanced seigniorage fee and royalty or tax and other things. Here is a case in which though allegations have been made against the respondents authorities, the petitioners have not thought it fit to array the persons who are the cause for this position of the petitioners, that is the lessees. Had the lessees been arrayed as parties, this Court would have given a direction against the persons responsible for it.

6. In view of the statutory provisions above referred to, I am of the view that the authorities have every right to recover the value of the mineral from the person who transported the mineral or caused to be transported otherwise than in accordance with law. Hence, the contention of the learned counsel for the petitioners that the petitioners being only transporters, are not liable, has to be rejected and the same is rejected. It is the contention of the petitioner that the petitioners have, after taking delivery of the vehicles along with granite blocks, on payment of the entire amount including the value of mineral, penalty imposed and seigniorage fee, unloaded the granite blocks in the office of the respective lessees. As the lessees are not parties before this Court, this Court cannot pass any order adversely affecting the said lessees. However, reserving the liberty to the petitioners to take such action which the petitioners are entitled to take against the lessees, in accordance with law, the writ petitions are disposed off. No costs.

Sd/-  
Asst. Registrar.

/true copy/

To

1. The Director of Geology,  
Guindy, Chennai 600 032.

2. The District Collector,  
Madurai District.

3. The Assistant Director of Mines,  
Madurai District.

3 ccs to Mr.K.Ravi Anantha Padmanabhan, Advocate, sr. 51211, 51212,  
51213

1 cc to Government Pleader, Sr. 51529

W Ps.10386, 10387 & 10396/2000

AKM (CO)  
kk 14/11



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