

(2006) 10 MAD CK 0129

In the Madras High Court

Case No : Writ Petitions No's. 10386, 10387 and 10396 of 2000

Adaikkalameri, S. Jayaraman and S. Chellakannu APPELLANT

Vs

The Director of Geology, The District Collector and The RESPONDENT
Assistant Director of Mines

Date of Decision : 31-10-2006

Acts Referred:

Mines and Minerals (Development and Regulation) Act, 1957 — Section 21, 21(4), 4(1A)

Citation : (2006) 10 MAD CK 0129

Hon'ble Judges : K. Raviraja Pandian, J

Bench : Single Bench

Advocate : K. Ravi Anantha Padmanabhan, for the Appellant; R. Thirugnanam, Special Government Pleader, for the Respondent

Judgement

K. Raviraja Pandian, J.—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.