

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21-12-2015

Coram:

The Hon'ble Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE

and

The Hon'ble Mrs.Justice PUSHPA SATHYANARAYANA

Writ Appeal No.1634 of 2015

1.The District Collector,
Erode District, Erode.

2.The Director,
Geology and Mining,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai 32.

3.The Assistant Director,
Geology and Mining,
Erode.

...Appellants/Respondents

Versus

N.Thangavel

...Respondent /Petitioner

Appeal filed under Clause 15 of the Letters Patent against the order dated 02.06.2015 made in W.P.No.9943 of 2015, on the file of this Court.

WP.No.9943 of 2015:Writ Petition filed Under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the Ist Respondent in his proceedings in Na.Ka.NO.5443/2015/X-1 dated 09/3/2015 and quash the same as illegal in so far as it rejects the request for operating the quarry for the leftover/unused period of one year between 7.10.2010 and 13.11.2011 and Consequently to direct the Respondents to permit the Petitioner to Continue with the quarry operatories for the left over period in Servey No.257/4, Thoppampalayam Village, Erode District.

For Appellants ::: Mr. S.T.S.Murthi
For Respondent ::: Mr.M.Govindaraj

J U D G M E N T

(Judgement of the Court was made by the Honourable The Chief Justice)

We had noted in our order dated 20.11.2015, the stand of the respondent that the area which was leased out to the petitioner, considering the stability of the Bhavanisagar Dam along with certain other areas, has been deleted from grant of lease through tender cum auction. This being the position, we believe that the impugned order of the learned Single Judge for extension of the lease for the period it was not permitted to be utilised by the respondent cannot be given effect to.

2. We however put to learned counsel for the appellant that in such a situation, the appellant was duty bound to refund the proportionate amount of the lease money paid from 07.10.2010 to 20.11.2011.

3. Learned Government Pleader appearing for the appellants submits that there is no rule for such refund. We however find this strange as, if the appellants have charged for utilising the lease and the lease is not permitted to be worked, naturally the amounts charged for the period when the lease was not permitted to be worked has to be refunded and on perusal of the record, it is quite apparent that the lease was not permitted to be operated for the aforesaid period.

4. Learned counsel for the respondent seeks to contend that the mining has been permitted in other survey numbers in the same area by referring to the order of the District Collector, Erode dated 12.02.2015.

5. A perusal of the aforesaid order shows that out of the 30 quarries which lease period had expired, it was decided to take further action to grant quarry lease to 19 quarries alone. However certain leases including that of the petitioner has not been renewed and those quarries stand deleted from being leased out again.

6. We are thus, of the view that all that the appellants are liable to do qua its obligation to the respondents are now to refund the amount for the period from 07.10.2010 to 20.11.2011 within a period of one month of the receipt of the order,

failing which the amount will carry simple interest at 10% per annum from the original date.

7. The impugned order to the aforesaid is set aside and the appeal is allowed leaving the parties to bear their own costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

Ksr

To

1.The District Collector, Erode District,
Erode

2.The Director, Geology & Mining
Thiru.Vika.Industrial Estate Guindy,
Chennai-32

3.The Assistant Director,Geology &
Mining, Erode

+1 cc to Government Pleader sr.69770

+1 cc to Mr.Govindaraj Advocate sr.68994

W.A.No.1634 of 2015

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