

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2015

CORAM :

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

AND

The Hon'ble MRS.JUSTICE PUSHPA SATHYANARAYANA

W.A. No.1668 of 2015

K.Jayapal

.. Appellant

-Vs-

1.The District Collector,
Tiruvellore District,
Tiruvellore.

2.K.Srinivasan

.. Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 07.10.2015 made in W.P.No.516 of 2015 on the file of this Court.

WP.NO.516/2015:- Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 1st Respondent in his proceedings in RC.NO.248/2007/G&M-2, Dated 5/12/2014 and quash the same and to direct the 1st Respondent to grant permission to remove 3000 Lorry Loads of savudu earth from S.No.695(PWD TANK) of Narayanapuram Village of Thiruvallur Taluk under Rule 12 of the Tamil Nadu Minor Mineral Concession Rules, 1959, for which seigniorage fee has been paid.

For Appellant : Mr.K.R.Krishnan

For Respondents : Mr.S.T.S.Murthi,
Govt. Pleader, assisted by
Mr.V.R.Kamalanathan, Addl.G.P.
for R-1

* * * * *

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

It appears from the submissions of the learned counsel for the appellant that in the earlier proceedings, both before the learned Single Judge and the Division Bench, what emerged was that in the pathway going through Survey No.692, there was a problem on account of opposition and therefore, the alternative pathway through Survey No.695 had to be considered. The competent authorities considered and rejected both the requests, which was an aspect assailed before the learned Single Judge.

2.The learned Single Judge vide the impugned order dated 07.10.2015 appears to have proceeded on the basis that the prayer in the writ petition is in respect of Survey No.695 and that the Division Bench had earlier restricted the appellant from quarrying in Survey No.695. The question really to be examined was whether the decision of the concerned authorities not to permit the alternate path through Survey No.695 was valid or not, which was not in issue before the Division Bench earlier and thus, the observation that the appellant should approach the Division Bench appears to be an error which has occurred.

3.In view of the aforesaid, learned counsel for the appellant states that he be permitted to move review application before the learned Single Judge, as there appears to be a mistake in appreciation of the aforesaid fact, which has resulted in the impugned order. Liberty granted.

4.Writ Appeal, accordingly, stands disposed of. No costs.
sra

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The District Collector,
Tiruvellore District,
Tiruvellore.

+ 1 CC TO The Govt.Pleader, Sr 65258.

+ 1 cc to Mr.K.R.Krishnan, Advocate Sr 65305.

VD/CO
KR/11/12

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