



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2015

CORAM :

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THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal (MD) No.1299 of 2015

J.Shaboore Pathusha

... Appellant/Petitioner

Vs.

The District Collector,
Tirunelveli District,
Tirunelveli.

... Respondent/Respondent

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 10.09.2015 made in W.P.(MD)No.9377 of 2015.

Prayer in WP(MD). 9377/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the respondent s in Na.Ka. No. M1/53822/2014 dated 02.01.2015 and quash the same and directing the respondents to grant permission to run the stone quarry for non operative period of 11 months in the Petitioner s patta oand in Survey No. 429 and 431 situated at Puliur Village, Tenkasi Taluk, Tirunelveli District, by considering the petitioner s representation dated 13.11.2014 within the period stipulated by this Honourable Court.

For Appellant

: Mr.A.Haja Mohideen

For Respondent

: Mr.A.K.Baskarapandian,
Special Government Pleader.

JUDGMENT

(Judgment of the Court was delivered by **V.RAMASUBRAMANIAN, J**)

The application for extension of the period for running a stone quarry for 11 months having been rejected by the District Collector, the appellant filed a writ petition but the same was dismissed by the learned Judge, forcing him to come up with the above appeal.



2. Heard Mr.A.Haja Mohideen, learned counsel for the appellant. Mr.A.K.Baskarapandian, learned Special Government Pleader takes notice for the respondent.

3. The appellant was granted lease to quarry rough stone in a land of an extent of acres 3.47 which belongs to him. The lease was for a period of three years, commencing from 05.02.2001 to 04.02.2004.

4. At the time when the lease was about to expire, the appellant came up with a writ petition in W.P(MD)No.3291 of 2014 seeking extension for a period of two years. This Court allowed the writ petition, compelling the authorities to extend lease upto 30.05.2006.

5. A second extension of the lease was obtained from the Court by an order passed in W.P(MD)No.4911 of 2006 on 23.06.2006. In the meantime, the appellant had applied for a fresh lease on 15.12.2003 for a period of five years. Perhaps, taking clue from the two orders that the appellant managed to obtain from this Court, the authorities were frustrated and granted a lease for five years commencing from 25.01.2010 and this lease was valid up to 24.01.2015.

6. Just before the expiry of the lease period, the appellant made a fresh application on 12.03.2014 for the grant of lease for a further period of five years. But since the area in which the appellant was carrying on the activities fell under the purview of Hill Area Conservation Authority, he could not get clearance from the authority.

7. As usual, the appellant came up with a writ petition in W.P(MD)No.9376 of 2015 seeking a direction to the Hill Area Conservation Authority to offer their remarks and for a consequential direction to the District Collector to grant renewal of lease. This writ petition is pending.

8. In the meantime, the appellant presented one more petition contending that he did not enjoy the lease for the full period of five years between 25.01.2010 to 24.01.2015. According to the appellant, he was ill for 333 days and the quarry was not in operation. Therefore, he made an application for the renewal of the lease for a period of 11 months, on the ground that during the validity of the lease, he could not operate the quarry due to ill health. That application was rejected by the District Collector, forcing the appellant to file a writ petition. The writ petition was dismissed by the learned Judge by an order dated 10.09.2015. It is as against the said order the appellant is before us.



9. We see absolutely no justification to entertain the writ appeal. The original grant made by the District Collector was only for a period of three years from 05.02.2001 to 04.02.2004. Subsequent extensions were obtained by the appellant through Court orders, completely contrary to the rules.

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10. The appellant admittedly did not obtain clearance from Hill Area Conservation Authority. Therefore, the learned Judge was right in dismissing the writ petition. Hence, the writ appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

sms

To

The District Collector, Tirunelveli District,
Tirunelveli.

+1CC to Mr. A. Haja Mohideen Advocate Sr.No. 69572

+1CC to Spl. Government Pleader Sr.No. 69670

GJM/GSV/AN/23.12.2015-3P-4C

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