

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.09.2016
Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No.26676 of 2016
and
WMP.No.22895 of 2016

M/s. J.Basheer Ahamed & Co.
by its Partner, J. Basheer Ahmed
NO.56-D Mogulpura Street,
Tiruvannamalai 606 601. ...Petitioner

Vs.

1. Tamil Nadu Minerals Ltd.,
rep. By its Chairman cum Managing Director,
No.31, Kamarajar Salai,
Chepauk, Chennai - 600 005.
2. Tamil Nadu Minerals Ltd.,
rep. By its General Manager,
No.31, Kamarajar Salai,
Chepauk, Chennai - 600 005. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, forbearing the respondent from its officials, agents, men or anybody on behalf of the respondents from in anyway disposing the 300 Nos. of granite blocks quarried by the petitioner pursuant to the Tender No.5197/EX-1/2016, dated 27.06.2016 and now, lying in the Black Granite Quarries in the property, measuring 6.38.00 hectares comprised in S.No.74 [part] situate at Veeranam Village, Tiruvannamalai District.

For Petitioner : Mr.D. Selvam
for M/s.T.K.S. Gandhi
For Respondents : Mr.S. Diwakar
Special Government Pleader

O R D E R

Heard Mr.D. Selvam, learned counsel representing M/s.T.K.S. Gandhi, the learned counsel for the petitioner and Mr.S. Diwakar, learned Special Government Pleader for respondents.

2. In this Writ Petition, the petitioner seeks for issuance of a writ of mandamus, forbearing respondents, and

their men, from in anyway disposing the granite blocks quarried by the petitioner, pursuant to the Tender, dated 27.06.2016.

3. The undisputed facts are that, the petitioner was granted a lease for quarrying the granite, in Veeranam Village, Tiruvannamalai District, pursuant to the agreement, dated 29.09.2009. Admittedly, the period of lease came to an end on 28.09.2014. However, before expiry of the lease period, the petitioner submitted a letter, requesting for extension of lease, and the said request was rejected, without resorting to the other remedy available under the Act and the Rules, the petitioner filed a suit before the IV Assistant Judge, City Civil Court, Chennai, in O.S.No.5257 of 2014, wherein, he has sought for declaratory relief, to declare that he is entitled for extension of lease, equivalent to the original period of lease, or for such extended period of lease, or until the optimum quarrying is completed.

4. It is not known as to how the suit was numbered, since the petitioner was not specific as to what was the extended period, he wants. The plaint prayer is vague and ambiguous, since the petitioner wants extension upto optimum quarrying is completed, and there is no definition available for the terms 'optimum quarrying'. Though the petitioner was able to secure interim order from the Trial Court, the respondents were able to succeed in vacating the interim order, by filing a Civil Miscellaneous Appeal, in C.M.A.No.149 of 2014, before the Lower Appellate Court, which vacated the interim order on 10.12.2015. Though, on and after the said date, the petitioner cannot carry on the quarrying operations, nevertheless, the petitioner, during the period, when of injunction was in force, had carried on the quarrying operations, and removed the granite blocks. After the injunction order was vacated, the respondent has invited Global Tenders, and this Writ Petition was filed, challenging the Global Tender notification, pointing out that the Suit is pending, and it is at the part heard stage, and the petitioner is challenging only the notification in respect of Serial No.17 of Annexure -1, pertaining to 74/1 at Veeranam. Further, it was represented that the granite blocks, which were quarried by the petitioner pursuant to the quarrying operations carried out, during the period when injunction was in force, are lying in the site. Considering the said fact, the order of interim stay was granted by this Court on 01.08.2016.

5. From the counter affidavit filed by the respondents, it is seen that the petitioner had no right to remain in quarry site beyond 10.12.2015. Pendency of the suit without any interim orders is no ground to say that the petitioner is entitled to block the tender process in respect of the subject

quarry. With regard to the plea raised by the petitioner that, some of the granite blocks quarried by him on the strength of the injunction order granted by the Trial Court are lying in the site, is also established to be factually incorrect, in the light of the communication sent by the Divisional Manager, Tamil Nadu Minerals Ltd., Thiruvannamalai Division, to the Managing Director, Tamil Nadu Minerals Ltd./ Chennai, stating that all the blocks have been removed and the last of such blocks were removed on 13.04.2016, for which, permissions were obtained.

6. Thus, in the light of the above undisputed facts, the petitioner's lease has already been expired on 28.09.2014, and only by virtue of the injunction order granted by the Trial Court, he was operating the quarry, and the injunction order was also vacated by the Lower Appellate Court, by order, dated 10.12.2015, the petitioner has absolutely, no semblance of any legal right to stall the impugned Global Tender notification. Accordingly, the Writ Petition fails and it is dismissed. Consequently, the interim order granted on 01.08.2016 is vacated, and the Writ Miscellaneous Petition for interim injunction is closed, and the respondent shall proceed further with the impugned tender notification. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman cum Managing Director,
Tamil Nadu Minerals Ltd.,
No.31, Kamarajar Salai,
Chepauk, Chennai - 600 005.

2.The General Manager,
Tamil Nadu Minerals Ltd.,
No.31, Kamarajar Salai,
Chepauk, Chennai - 600 005.

1 cc to M/s.T.K.S.Gandhi, Advocate, sr.53960

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ev co
kra 18.10.2016