

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM:

The Honourable Mr. SANJAY KISHAN KAUL, Chief Justice  
and  
The Honourable Mr. Justice M.M. SUNDRESH

Writ Appeal No.489 of 2016  
and  
CMP.No.6715 of 2016

K.Nehruprakash ... Appellant/Petitioner

vs.

- 1.The Government of Tamil Nadu,  
rep. by its Addl. Chief Secretary to Government,  
Industries Department,  
Fort St. George, Chennai-600 009.
- 2.The Commissioner of Geology and Mining,  
Guindy,  
Chennai-600 032.
- 3.The District Collector,  
Thoothukudi District,  
Thoothukudi.
- 4.The Revenue Divisional Officer,  
Kovilpatti,  
Thoothukudi District. ... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent,  
against the order dated 08.12.2015 in W.P.No.26253 of 2015 on  
the file of this Court.

For Appellant : Mr.V.Sanjeevi

For Respondents : Mr.T.N.Rajagopalan  
Special Government Pleader

J U D G M E N T

(Made by The Hon'ble The Chief Justice)

In the course of arguments, the primary issue, if not the only one, which is being raised is that seigniorage fee was enhanced by the District Collector without any notice to the appellant, coupled with the plea that there is no such power under the rules. This plea has been taken in the affidavit, but in the impugned order of the learned Single Judge, there is no

discussion on it, as conceded by the learned counsel for the appellant, who however, submits that this plea was advanced before the learned Single Judge.

2. It is trite to say that we are confined to what has been discussed in the impugned order and for something which was urged and not dealt with, the appellant would be required to go before the learned Single Judge to invite a finding, thereafter only the Division Bench would opine whether the said reasoning is to be accepted or not.

3. The learned counsel for the appellant, faced with the aforesaid position, seeks to withdraw the appeal and approach the learned Single Judge in terms aforesaid before seeking the appellate remedy.

4. Liberty granted.

5. The appeal is dismissed as withdrawn in terms aforesaid. No costs. Consequently, CMP.No.6715 of 2016 is closed.

6. We may clarify that since the appellant was prosecuting the present appeal in which time has been spent, the period spent in the appeal would be excluded. Application be filed within two weeks from today.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Addl. Chief Secretary to Government,  
Industries Department,  
Fort St. George, Chennai-600 009.
- 2.The Commissioner of Geology and Mining,  
Guindy, Chennai-600 032.
- 3.The District Collector,  
Thoothukudi District, Thoothukudi.
- 4.The Revenue Divisional Officer,  
Kovilpatti, Thoothukudi District.

+1cc to Mr.V. Sanjeevi, Advocate, S.R.No.24156

+1cc to the Government Pleader, S.R.No.24834

W.A. No.489 of 2016

RSI (CO)

Eu 26.4.16