

Reserved on : 12.04.2016
Delivered on : 20.04.2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.04.2016

CORAM:

THE HON'BLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.8163 of 2016
and
W.M.P.No.7252 of 2016

S.Thangammal ... Petitioner

Vs.

- 1.The District Collector,
Collectorate Office,
Villupuram District, Villupuram.
- 2.The Assistant Director of Geology & Mines,
Villupuram District, Villupuram.
- 3.The Revenue Divisional Officer,
Villupuram District, Villupuram. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in his proceedings No.O.Mu.A.B/Geology & Mines/03/2016 dated 03.02.2016 quash the same and consequently, direct the respondent to grant permission to the petitioner to carry on quarrying operation in respect of stone quarry in Survey No.393/1 (Part IIA) extent of 1.41.5 hectares at Malaikotalam Village, Villupuram District for which the petitioner was prevented by the respondent for 8 months from 11.07.2011 to 03.04.2012.

For Petitioner : Mr.V.Karthikeyan

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

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records of the 2nd respondent in his proceedings dated 03.02.2016 and to quash the same and consequently, to direct the respondent to grant permission to the petitioner to carry on quarrying operation in respect of stone quarry in Survey No.393/1 (Part IIA) extent of 1.41.5 hectares at Malaikotalam Village,

Villupuram District for which the petitioner was prevented by the respondent for 8 months from 11.07.2011 to 03.04.2012.

2.It is the case of the petitioner that her husband Late Sitha Gounder was a successful bidder in respect of the stone quarry situated in Survey No.393/1 (Part IIA) extent of 1.41.5 hectares at Malaikotalam Village, Villupuram District for a period of five years commencing from 03.01.2011 to 02.01.2016, for which a separate Lease Agreement was executed. During the currency of the Lease, the petitioner's husband died on 11.07.2011, hence, the respondent suspended the operation of the stone quarry. The petitioner, being the legal heir, obtained the Death Certificate on 19.07.2011 and the Legal Heir Certificate on 08.08.2011. On the strength of the said certificates, the petitioner applied for transfer of Lease in her favour on 17.08.2011. The Lease was transferred in the name of the petitioner by the 1st respondent's proceedings dated 25.11.2011. Accordingly, the transport permits were issued upto entire Lease period. Pursuant to the proceedings of the 1st respondent dated 25.11.2011, the petitioner purchased stamp paper for the execution of the Supplementary Lease Deed on 28.11.2011 and submitted the same before the 1st respondent on 29.11.2011. The 1st respondent executed the Supplementary Lease Deed on 26.12.2011 in favour of the petitioner and the same was sent to the Sub Registrar, Kallakurichi for registration by the 1st respondent by proceedings dated 03.01.2012. However, the petitioner had got the Supplementary Lease Deed registered only on 21.03.2012. The copy of the proceedings dated 03.01.2012 was also sent to the petitioner, which was also acknowledged by her on 04.01.2012. The petitioner is not in a position to explain the reasons for not registering the document immediately after the receipt of the proceedings dated 03.01.2012. The petitioner took more than two and a half months for getting the document registered, for which the respondents cannot be blamed.

3.Mr.V.Karthikeyan, learned counsel appearing for the petitioner submitted that the petitioner was prevented by the respondents from carrying out the quarrying operation from 11.07.2011 to 03.04.2012, therefore, the petitioner should be permitted to carry out the quarrying operation for the said unworkable period of eight months.

4.Mr.T.N.Rajagopalan, learned Special Government Pleader appearing for the respondents submitted that under Clause-19 of the conditions for Lease, the petitioner's husband had agreed that the lease period cannot be accepted under any circumstances. Further, the learned Special Government Pleader submitted that the respondents have not prevented the petitioner from carrying out the operations and therefore, the order passed by the 1st respondent rejecting the request for extension of time is perfectly correct.

5.The learned counsel appearing for the petitioner, in support of his contention, relied upon an unreported judgment of the Division Bench of this Court made in W.A.Nos.1018 & 1019 of 2010 dated 17.03.2011 and in W.A.No.542 of 2012 & 2470 of 2011 dated 26.04.2012 wherein the Division Bench of this Court held that when the lessee is prevented by the authorities from carrying out the quarrying operation, the period of Lease can be extended for the period during which the petitioner was prevented by the authorities.

6.The learned Special Government Pleader submitted that in the case on hand, the respondents have not prevented the petitioner from carrying out the quarrying operation and only due to the death of the petitioner's husband, quarrying operation was suspended and as per Rule 8 (8)(ii) of the Tamil Nadu Minor Mineral Concession Rules, 1959, in no case, extension of period of lease can be made. In the case on hand, as already stated, the period of delay from 03.01.2012 to the date of registration of the Supplementary Lease (i.e.) 21.03.2012 cannot be attributed to the respondents and the delay between 03.01.2012 and 21.03.2012 was solely because of the petitioner.

7.It is not in dispute that the petitioner's husband had died on 11.07.2011 and after obtaining the Death Certificate and Legal Heir Certificate, the petitioner applied for transfer of Lease on 17.08.2011. From 17.08.2011, the 1st respondent kept the petitioner's application pending upto 25.11.2011. On 25.11.2011, the 1st respondent granted permission for the transfer of Lease in favour of the petitioner and called upon the petitioner to submit the stamp papers for the execution of Supplementary Lease Deed. The petitioner purchased the stamp papers on 28.11.2011 and submitted the same before the 1st respondent on 29.11.2011, which is evident from the original records produced by the learned Special Government Pleader. After receiving the stamp papers on 29.11.2011, the 1st respondent had executed the Lease Deed only on 26.12.2011 and the same was sent to the Sub Registrar's Office, Kallakurichi on 03.01.2012, which was also communicated to the petitioner. However, the petitioner got the Lease Deed registered only on 21.03.2012. When the petitioner had submitted the application on 17.08.2011, the 1st respondent took more than three months for granting permission for the transfer of Lease in favour of the petitioner and took nearly one and a half months for sending the Lease Deed for registration to the Sub Registrar's Officer. The delay in processing the application can be attributed only on the respondents and the petitioner cannot be found fault for the said delay.

8.When the 1st respondent had received the application on 17.08.2011, she should have processed the application within a reasonable time and should not have taken four and a half

months for sending the documents to the Sub Registrar of registration, without any reason, whatsoever. When there is no explanation offered by the 1st respondent for the delay of four and a half months in executing the Supplementary Lease Deed, the 1st respondent should have permitted the petitioner to carry out the stone quarrying operation for the said period. The representation given by the petitioner for extension of Lease period from 11.07.2011 to 03.04.2012 (i.e.) for eight months was rejected by the respondents stating that the lease period cannot be extended in view of the Rule 8(8)(ii) of the Tamil Nadu Minor Mineral Concession Rules, 1959. Since the delay of four and a half months in sending the Supplementary Lease Deed for the registration to the Sub Registrar, Kallakurichi was solely because of the 1st respondent, the 1st respondent should have permitted the petitioner to carry out the quarrying operation for the said period. Though the petitioner's husband had died on 11.07.2011, the petitioner had applied for transfer of Lease only on 17.08.2011, therefore, the delay for the period from 11.07.2011 to 17.08.2011 and from 03.01.2012 to 03.04.2012 was only because of the petitioner, for which she cannot be given permission to carry out the quarrying operation.

9. In these circumstances, I am of the considered view that the petitioner can be permitted to carry out the quarrying operation for the period of four and a half months (i.e.) from 17.08.2011 to 03.01.2012. In these circumstances, the impugned order dated 03.02.2016 passed by the 1st respondent is liable to be set aside. Accordingly, the same is set aside. The 1st respondent is directed to grant permission to the petitioner to carry out the stone quarrying operation for the period of four and a half months (i.e. from 17.08.2011 to 03.01.2012) subject to the petitioner satisfying all the procedures and terms and conditions contemplated under the Tamil Nadu Minor Mineral Concession Rules, 1959.

10. With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

va

Sd/-

Asst. Registrar

/true copy/

Sub Asst. Registrar

To

1. The District Collector,
Collectorate Office,
Villupuram District, Villupuram.

2. The Assistant Director of Geology & Mines,
Villupuram District, Villupuram.

3.The Revenue Divisional Officer,
Villupuram District, Villupuram.

+ 2 ccs to Mr.V.Karthikeyan, Advocate Sr 24502

+ 1 cc to The Govt.Pleader, Sr 24574

KR/22/4/16

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