

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON : 27/08/2004

DATED : 11/01/2016

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.19343 of 2006

and

M.P.No.1 of 2006

M/s.Bishal Enterprises,
Rep. by its Partner Thiru.K.Balaji,
No.254-B, 50th Street, Ashok Nagar,
Chennai-600 083. Petitioner

vs.

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Industries Department,
Fort St. George, Chennai-600 009.

2.The District Collector,
Villupuram District,
Villupuram. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus, to forbear the respondents from in any way interfering with the petitioner's right to continue quarry operations and transport granite from petitioner's patta lands measuring 1.06.5 hectares in S.No.38, 0.08.0 hectares in S.No.37/06, 0.42.5 hectares in S.No.37/5, 0.17.0 hectares, in S.No.37/8B, 0.06.0 hectares in S.No.37/2, 0.06.0 hectares in S.No.37/3, 0.04.5 hectares in S.No.37/4 and 0.05.0 hectares in S.No.37/7 totally measuring 2.31.5 hectares situated in Eraiyur Village, Vanur Taluk, Villupuram District till the disposal of the petitioner's renewal application dated 21.01.2004.

For Petitioner : Mrs.P.Kalpa Reddy
For M/s.K.Ramakrishna Reddy

For Respondents : Mr.M.S.Ramesh
Additional Government Pleader

O R D E R

The petitioner has submitted that the first respondent by G.O.3(D)No.102, dated 23.02.1994 has granted granite quarrying lease in respect of the petitioner's patta lands measuring 4.70.5 hectares, comprised in S.No.37/1 etc., situated in both Karasanur and Eraiyur Villages of Vanur Taluk, Villupuram District. Out of the said total area 0.73.0 hectares are situated in Karasanur Village. The quarry lands measuring 1.06.5 hectares in S.No.38, 0.08.0 hectares in S.No.37/6, 0.42.5 hectares in S.No.37/5, 0.17.0 hectares in S.No.37/8B, 0.06.0 hectares in S.No.37/2, 0.06.0 hectares in S.No.37/3, 0.04.5 hectares in S.No.37/4 and 0.05.0 hectares in S.No.37/7 totally measuring 2.31.5 hectares are situated in Eraiyur Village, Vanur Taluk, Villupuram District. Necessary lease agreement was executed on 31.01.1994 for a period of 10 years. The said lease period is from 31.01.1994 to 30.01.2004. The petitioner has further submitted that subsequently, the Government of India has brought Granite Conservation and Development Rules, 1999 with effect from 01.06.1999 to have an uniform policy through India. As per the said Rules, the lease shall be granted for a minimum period of 20 years and the lessee shall be entitled for one renewal of the equivalent period. The petitioner has further submitted that as the said amendments came during the currency of the lease and as per the settled law, the said amendments will apply to the existing leases and as such, the petitioner's said lease period shall be extended to 20 years as per the amended Rules and for the said relief, the petitioner hereby reserves the right to move a separate writ petition in an appropriate time if so, required. De hors to the said submission and without prejudice to the said submission, the petitioner has stated that as per the said Rules, every lessee holding a quarry lease shall be entitled for one renewal of the said lease for the period not exceeding 20 years. Further, the said Rule says that the application for renewal shall be made to the State Government through the District Collector.

2. The petitioner has further submitted that though the petitioner was entitled to continue quarry operations for a period of 20 years i.e., till 30.01.2014 as per the Central Government Granite Conservation Rules, as an abundant caution, the petitioner by an application dated 01.12.2005, has sought renewal of the said lease. The said application was sent to the first respondent through the second respondent by complying with all the formalities and requirements. The said renewal application submitted clubbing both the quarry lands of Karasanur and Eraiyur Villages as the said areas are continuous in nature. Though the petitioner has submitted the application and sought for renewal by complying with all the statutory formalities and requirements, the respondents have not passed any orders till date on the said renewal application of the petitioner. The petitioner has further

submitted that on the representation of the All India Granite Association to bring an uniform policy through out the country, the Central Government has framed the said Granite Conservation and Development Rules, 1999 and the said Rules came into effect on 01.06.1999. As per the said Rules, the petitioner is entitled for the renewal of the lease.

3. The petitioner has further submitted that in view of the tender system introduced by the first respondent in respect of Government lands has been set-aside by this Court, the respondents are framing new Rules in conformity with the Granite Conservation and Development Rules for both Government lands and patta lands and it seems the said exercise may take considerable time. In view of the said proposed amendments, the petitioner's renewal application is not taken up for consideration by the respondents.

4. The petitioner has further submitted that there is no impediment whatsoever to grant renewal and in fact the petitioner has got a statutory right for renewal as per the said Granite Conservation Rules. There is no hope of the first respondent passing the renewal till the proposed amendments are brought into the Tamil Nadu Minor Mineral Concession Rules in spite of the fact that the Granite Conservation and Development Rules contemplates the lease period as 20 years and contemplates one renewal for the same period. The petitioner has invested huge amounts and has employed hundreds of men both skilled and unskilled. In anticipation of the renewal, the petitioner has entered into time bound supply contracts with the intending buyers. Taking advantage of the delay in consideration of the renewal application, the second respondent is not permitting the petitioner to continue quarry operations and insisted to get suitable Court orders from this Court on par with the similarly placed persons. The petitioner has further submitted that the said actions of the respondents are arbitrary, against law, perse illegal, against principles of natural justice and against Article 14 and 19(1) (g) of the Constitution of India. Hence, the petitioner has filed the above writ petition.

5. The highly competent counsel appearing for the petitioner has submitted that the second respondent herein had granted granite quarry lease in respect of 4.70.5 hectares of land comprised in Survey Nos.31/1 etc., in Karasanur and Eraiyur Villages of Vanur Taluk, Villpuram District, for a period of ten years with effect from 23.02.1994. As per Granite Conservation and Development Rules, 1999, lease period shall be for a minimum period of twenty years. As such, each lease is liable to be renewed for twenty years. When the said Rule came into force, the petitioner's lease was in existence. The first respondent had issued G.O.Ms.No.86, dated 26.02.2001 and introduced a tender system. The said Government Order was set aside by this Court, which has become final. Subsequently, the petitioner filed a writ petition before this

Court, which is pending, to give direction to the respondents to consider his application to renew the lease license. In similar matters, a batch of writ petitions has been admitted by this Court and interim injunction was granted restraining the respondents from interfering with the quarry operations and transport of mineral on payment of seigniorage fee. The interim injunction was subsequently made absolute.

6. Further, the very competent counsel has submitted that the petitioner has submitted the application and sought for renewal by complying with all the statutory formalities and requirements, but the respondents have not passed any orders till date. As per the Granite Conservation and Development Rules, 1999, the petitioner is entitled for renewal of lease. Further, there is no impediment whatsoever to grant renewal and the petitioner has got a statutory right as per Central Government Rules. There is no hope of the first respondent in passing the renewal till the proposed amendments are brought into the Tamil Nadu Minor Mineral Concession Rules in spite of the fact that the Granite Conservation and Development Rules contemplates the lease period as twenty years and contemplates one renewal for the same period. The petitioner has invested huge amounts and has employed hundreds of men, both skilled and unskilled. Hence, the learned counsel has prayed for direction to the respondents not to prevent the petitioner to continue quarry operation and transport granite from his site.

7. The highly competent Additional Government Pleader appearing for the respondents has submitted that the petitioner was granted granite quarry licence on 23.02.1994 for a period of ten years. The same had expired on 22.02.2004. But, the petitioner submitted an application to renew the lease only on 01.12.2005 and therefore the application is not maintainable. Further, the petitioner has no right to carry on quarry operation any further. He is not entitled to receive any relief under the Granite Conservation and Development Rules, 1999 for a further period of twenty years, since the subject matter of the quarry operation comes under the Tamil Nadu Minor Mineral Concession Rules. Further, this Court has no jurisdiction to give any direction to the respondents to grant renewal for any further period, since the renewal depends upon the earlier lease agreement made between both parties. Hence, the learned Additional Government Pleader has prayed this Court to dismiss the writ petition.

8. On considering the facts and circumstances of the case, arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that sofar the application for renewal of lease, dated 01.12.2005, has not been considered. Further, the initial granite quarry lease agreement, dated 23.02.1994, expired on 22.02.2004. Now, after a lapse of twelve years, this Court cannot interfere with the said renewal application. As such,

the writ petition does not generate sufficient force to allow it and hence, the writ petition is liable to be dismissed.

9. In the result, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

r n s / krk

To:

1.The Secretary to Government,
Government of Tamil Nadu,
Industries Department,
Fort St. George, Chennai-600 009.

2.The District Collector,
Villupuram District,
Villupuram.

+1 C.C to Mr.K.Ramakrishna Reddy. Advocate SR.No.2160

W.P.No.19343 of 2006
and
M.P.No.1 of 2006

EV(CO)
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