



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE C.T.SELVAM

W.A.(MD)Nos.503 to 508 of 2016

and

CMP.(MD)Nos.3534 to 3538 of 2016

M/s.Angiac Minerals Company

Rep. by its Partner,

J.M.Jacob Bagyadoss

.. Appellant/Petitioner in all the Writ Appeals

Vs.

1.The District Collector,
Collectorate, Trichy,
Trichy District.

2.The Commissioner/Director of
Geology and Mining,
Guindy, Chennai - 32.

3.The State of Tamil Nadu rep.
by its Secretary,
Industries Department,
Fort St.George, Chennai.

4.Kannan .. Respondents/Respondents in all the Writ Appeals

COMMON PRAYER: The Writ Appeals are filed under Clause 15 of Letters Patent against the order of this Court, dated 13.03.2012 in W.P.(MD)Nos.14888 to 14893 of 2010.

Prayer in WP(MD)No.14888/2010:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the 1st Respondent to consider and forward the Petitioner 2 Garnet Mining Lease Applications even dated 09-01-2007 in Rc.A.Nos.37/2007 and 43/2007 on his file in accordance with law at the earliest to the 3rd Respondent through the 2nd Respondent.

**Prayer in WP(MD)No.14889/2010:-**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the 1st Respondent to consider and forward the Petitioner 8 Garnet Mining Lease Applications even dated 24-04-2008 in Rc.A.Nos.475/2008, 476/2008, 477/2008, 478/2008, 479/2008, 480/2008, 481/2008 and 482/2008 on his file in accordance with law at the earliest to the 3rd Respondent through the 2nd Respondent.

Prayer in WP(MD)No.14890/2010:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the 1st Respondent to consider and forward the Petitioner 2 Garnet Mining Lease Applications even dated 10-01-2007 in Rc.A.Nos.46/2007 and 49/2007 on his file in accordance with law at the earliest to the 3rd Respondent through the 2nd Respondent.

Prayer in WP(MD)No.14891/2010:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the 1st Respondent to consider and forward the Petitioner Garnet Mining Lease Application dated 27-02-2008 in Rc.A.No.191/2008 on his file in accordance with law at the earliest to the 3rd Respondent through the 2nd Respondent.

Prayer in WP(MD)No.14892/2010:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the 1st Respondent to consider and forward the Petitioner Garnet Mining Lease Application dated 28-08-2007 in Rc.A.No.798/2007 on his file in accordance with law at the earliest to the 3rd Respondent through the 2nd Respondent.

Prayer in WP(MD)No.14893/2010:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the 1st Respondent to consider and forward the Petitioner 3 Garnet Mining Lease Applications even dated 01-02-2008 in Rc.A.Nos.95/2008, 96/2008 and 97/2008 on his file in accordance with law at the earliest to the 3rd Respondent through the 2nd Respondent.

For appellant in
all the W.As.

: Mr.K.Alagarsamy
for Mr.N.Dilipkumar



For RR1 to 4 in
all the W.As.

: Mr.A.K.Basakarapandian
Special Government Pleader

For R4

: Mr.T.Selvan

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C O M M O N J U D G M E N T

(The Judgment of the Court was delivered by

S.MANIKUMAR, J.)

We have heard Mr.K.Alagarsamy, learned counsel on record for the appellant.

2.Material on record shows that mining lease applications have been filed on 09.01.2007. After three years, writ petitions have been filed with a prayer directing the District Collector, Nagercoil, respondent No.1 therein to consider and forward the lease applications, dated 09.01.2007; 24.04.2008; 10.01.2007; 27.02.2008; 28.08.2007 and 01.02.2008 respectively.

3.Before the writ Court, objections have been made by the respondents therein, that the Government have taken a policy decision in G.O.Ms.No.95, Industries (MMC.I) Department, dated 01.10.2003 and introduced Rule 38A of the Tamil Nadu Minor Mineral Concession Rules, 1959, which has been upheld by the Hon'ble Division Bench of this Court in the decision in **STATE OF TAMIL NADU AND OTHERS v. P.KRISHNAMOORTHY AND OTHERS reported in 2014 (3) L.W. 738** and therefore, the petitioners cannot seek for grant of mining lease for sand.

4.In the instant appeals, by inviting the attention of this Court to the nature of minerals, granite and magnetite and not sand, for which, lease has been sought for, intervention of the impugned orders, is sought for.

5.Though the orders impugned in the appeals indicate an error in application of Rule 38A of the Tamil Nadu Minor Mineral Concession Rules, 1959, and the reported Judgment, considering the fact that the lease applications have been made in the year 2007, for which, writ petitions have been filed after a delay of 3 years and the passage of time 9 years, from the date of submission of the lease application, we are not inclined to grant the prayer sought for in the writ petitions.

6.At this juncture, we wish to extract the following few decisions on the aspect of reasonable time, laches and delay on the part of the appellant, in invoking extraordinary jurisdiction of this Court, under Article 226 of the Constitution of India.



for slackness or negligence or not doing. In general sense, it means neglect to do what in the law should have been done for an unreasonable or unexplained length of time. What could be the laches in one case might not constitute in another. The laches to non-suit, an aggrieved person from challenging the acquisition proceedings should be inferred from the conduct of the land owner or an interested person and that there should be a passive inaction for a reasonable length of time. What is reasonable time has not been explained in any of the enactment. Reasonable time depends upon the facts and circumstances of each case.

The words "reasonable time", as explained in *Veerayeeammal v. Seeniammal* reported in 2002 (1) SCC 134, at Paragraph 13, is as follows:

"13. The word "reasonable" has in law prima facie meaning of reasonable in regard to those circumstances of which the person concerned is called upon to act reasonably knows or ought to know as to what was reasonable. It may be unreasonable to give an exact definition of the word "reasonable". The reason varies in its conclusion according to idiosyncrasy of the individual and the time and circumstances in which he thinks. The dictionary meaning of the "reasonable time" is to be so much time as is necessary, under the circumstances, to do conveniently what the contract or duty requires should be done in a particular case. In other words it means, as soon as circumstances permit. In *P. Ramanatha Aiyar's The Law Lexicon* it is defined to mean:

"A reasonable time, looking at all the circumstances of the case; a reasonable time under ordinary circumstances; as soon as circumstances will permit; so much time as is necessary under the circumstances, conveniently to do what the contract requires should be done; some more protracted space than 'directly'; such length of time as may fairly, and properly, and reasonably be allowed or required, having regard to the nature of the act or duty and to the attending circumstances; all these convey more or less the same idea."

In *Virender Chaudhary v. Bharat Petroleum Corpn.*, reported in 2009 (1) SCC 297, the Supreme Court, held as follows:

"14.The court exercises its jurisdiction only upon satisfying itself that it would be equitable to do so. Delay and/or laches, indisputably, are the relevant factors.

15. The Superior Courts, times without number, applied the equitable principles for not granting and/or a limited relief in favour of the applicant in a case of this nature. While doing so, the court although not oblivious of the fact that no period



of limitation is provided for filing a writ petition but emphasize is laid that it should be filed within a reasonable time. A discretionary jurisdiction under Article 226 of the Constitution of India need not be exercised if the writ petitioner is guilty of delay and laches.

2. Some of the decisions considered by the Hon'ble Apex Court in **Virender Chaudhary's case** (cited supra), are extracted hereunder:

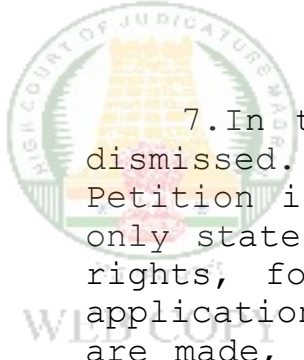
"16. In **Uttaranchal Forest Development Corporation and Anr. v. Jabar Singh and Ors. [(2007) 2 SCC 112]**, the Hon'ble Court held:

"It is not in dispute that the effective alternative remedy was not availed of by many of the workmen as detailed in paragraphs supra. The termination order was made in the year 1995 and the writ petitions were admittedly filed in the year 2005 after a delay of 10 years. The High Court, in our opinion, was not justified in entertaining the writ petition on the ground that the petition has been filed after a delay of 10 years and that the writ petitions should have been dismissed by the High Court on the ground of laches."

17. In **New Delhi Municipal Council v. Pan Singh and Ors. [(2007) 9 SCC 278]**, this Court held:

"16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See **Govt. of W.B. v. Tarun K. Roy [(2004) 1 SCC 347]**, **U.P. Jal Nigam v. Jaswant Singh [(2006) 11 SCC 464]** and **Karnataka Power Corpn. Ltd., v. K.Thangappan [(2006) 4 SCC 332]**)

17. Although, there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, ordinarily, writ petition should be filed within a reasonable time. (See **Lipton India Ltd. v. Union of India [(1994) 6 SCC 524]** and **M.R.Gupta v. Union of India [(1995) 5 SCC 628]**)."



7. In the light of the above decisions, the writ appeals are dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed. While dismissing the writ appeals, we only state that if the appellant is interested to prosecute their rights, for lease, it is always open to them to make necessary application to the concerned and if any such lease applications are made, it is open to the authorities to consider the same, in accordance with Rules and the Government Orders issued from time to time.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The District Collector,
Collectorate, Trichy,
Trichy District.

2. The Commissioner/Director of
Geology and Mining,
Guindy, Chennai - 32.

3. The Secretary,
The State of Tamil Nadu
Industries Department,
Fort St. George, Chennai.

+One cc to The Special Government Pleader, SR.No.18570

rj2

RL/5C/6P/JGB/DP/15/4/2016

Judgment delivered in
W.A. (MD) Nos.503 to 508 of 2016