

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.27629 of 2016

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Industries, appearing for respondents.

2. The petitioner was granted a quarry lease for gravel in 4.000 hectares in Sy. No.283 of Golagam village, Anakapally Mandal, Visakhapatnam District for five years by the Deputy Director of Mines and Geology vide proceedings No.4228/Q.II A/09 dt.29-03-2011. Thereafter, a lease deed was executed by the 4th respondent for five years and work orders were issued in proceedings No.878/Q/08 dt.05-06-2011. It expired on 04-06-2016.

3. Before the expiry of the said lease period, the petitioner submitted on 01-03-2016, an application for renewal of the said quarry lease. This was 90 days before the expiry of lease period.

4. By proceedings No.1526/Q.IIa/2015 dt.07-06-2016, the 3rd respondent granted first renewal of quarry lease for reduced extent of 1.64 hectares or Ac.5.00 cts including rough stone as additional mineral. As per this renewal granted by 3rd respondent, petitioner has to execute lease deed before 4th respondent within 90 days from the date of order of the 3rd respondent.

5. Petitioner contended that she approached 4th respondent along with proceedings of 3rd respondent on 21-06-2016 requesting to

receive certain payments and submit challans. Petitioner contends that 4th respondent is not executing quarry lease deed and not issuing work orders in spite of the direction of 3rd respondent referred to above. Petitioner contended that on 21-06-2016, 4th respondent issued proceedings requesting to make payment of Rs.65,600/- towards Dead Rent. Petitioner contends that she had already submitted Dead Rent of Rs.30,685/- dt.29-02-2016 for 4.000 hectares as per the request placed by 4th respondent on line, that petitioner was requested to pay further sum of Rs.5,297/- and she had deposited Rs.5,500/- on 16-07-2016 and in order to avoid any disputes, she has deposited again vide Treasury Challan No.9699 -Rs.65,600/-, vide Treasury Challan No.9701 - Rs.100/- and vide Treasury Challan No.9705 - Rs.50/- on 19-08-2016 and a demand draft bearing No.85321 for Rs.21,650/- was also taken for submission on the date of execution of the renewal lease deed. It is also stated that security deposit for a sum of Rs.66,000/- was made on 14-06-2011 which would matured on 14-06-2017 with maturity amount of Rs.1,05,666/- and therefore the respondents cannot contend that the petitioner has not made the requisite payments. Petitioner also claims that on 02-09-2016, petitioner had requested 3rd respondent for issuance of Mineral Due Clearance Certificate (MDCC) so that she can execute a renewal quarry lease deed, but no action has been taken by 3rd respondent in that regard.

6. Counter affidavit has been filed by 4th respondent stating that the petitioner was granted first renewal of quarry lease for gravel

including rough stone as additional mineral for Ac.1.64 hectares in the above land with effect from 15-06-2016 for five years subject to certain conditions specified in proceedings dt.07-06-2016 by 3rd respondent which include payment of Dead Rent for Rs.82,000/- and production of valid MDCC issued by 4th respondent. It is contended that the amounts required to be paid for execution of lease deed were not paid by the petitioner. It is alleged that the petitioner has not approached 4th respondent for execution of the first renewal of the quarry lease deed till 24-08-2016 by complying with the conditions stipulated therefor and that she has not submitted the MDCC in Form H issued by 4th respondent. However, it is admitted that the petitioner paid sum of Rs.82,000/- after the stipulated time i.e. 09-09-2016 and submitted the same to the office of 4th respondent on 12-09-2016. It is contended that quarry lease deed can be executed if the petitioner gets permission for extension of time from 2nd respondent for execution of renewal quarry lease deed and on submission of the MDCC from 3rd respondent.

7. From the above pleadings, it is clear that the Dead Rent of Rs.82,000/- payable by the petitioner has been paid on 12-09-2016 after delay of three days from 09-09-2016. However, it is not in dispute that extension of time for making the said payment can be granted by 2nd respondent.

8. As far as the MDCC to be issued by 3rd respondent is concerned, admittedly, the petitioner had requested 3rd respondent to

issue MDCC even as recently as 02-09-2016. When such request is pending with 3rd respondent, the 4th respondent cannot blame the petitioner for not producing it because unless the 3rd respondent issues it, the petitioner cannot produce it.

9. Therefore, the Writ Petition is allowed and the 3rd respondent is directed to issue MDCC as requested by the petitioner within two weeks from the date of receipt of a copy of this order; the 2nd respondent is directed to condone the short delay of three days in payment of Dead Rent by the 2nd respondent in exercise of the powers conferred on him under AP Minor Mineral Concession Rules 1966; and 4th respondent is directed to execute lease deed pursuant to the order dt.07-06-2016 of 3rd respondent for the extent of 1.64 hectares in Sy. No.283 of Golagam village, Anakapally Mandal, Visakhapatnam District in favour of the petitioner for a period of five years for gravel including rough stone within four weeks from the date of receipt of a copy of this order. No costs.

10. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 29-09-2016
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