

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.519 OF 2013

- 1 THE SECRETARY TO GOVERNMENT
INDUSTRIES DEPARTMENT GOVERNMENT OF
TAMILNADU FORT ST.GEORGE CHENNAI 9
- 2 THE COMMISSIONER OF GEOLOGY AND MINING
GUINDY CHENNAI 32
- 3 THE DISTRICT COLLECTOR
VILLUPURAM AND DISTRICT ...Appellants
- versus
- 1 M/S.ROJA KALLUDAIKKUM MAGALIR MUNNETRA SANGAM
REP BY ITS PRESIDENT A.RADHA
THIRUVAKKARAI POST AND VILLAGE
VANUR TK VILLUPURAM DISTRICT ...Respondent

Appeal filed against the order passed by this Court dated 17.12.2012 passed in W.P.No.29767 of 2012.

Writ Petition filed under Article 226 of the constitution of India for the issuance of Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in G.O. 2 (D) No. 40 Industries (MMC2) Department dt 8.10.2012 and quash the same and direct the 1st respondent to permit the petitioner Society to carry on quarrying operations in respect of Stone Quarry situated in S. No. 111/6 over an extent of 4.08.0 Hectares in Thiruvakkarai Village Vanur Taluk Villupuram District for which the petitioner Society was illegally prevented by the 2nd respondent for a period of 2 years (from 14.8.2006 to 23.7.2008)

For appellants : Mr.V.Anandhamurthi, A.G.P.

For Respondent : No appearance

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The learned Single Judge directed the appellants to permit the respondent to quarry stones beyond the period of lease, taking into account certain subsequent events, notwithstanding the absence of a provision for such renewal under the Tamil Nadu Minor Mineral Concession Rules, 1959. Feeling aggrieved by the said direction, the State is before this Court.

2. The respondent was given quarry lease for quarrying rough stone in S.F.No.111/6 over an extent of 4.08.0 Hectares in Thiruvakkarai Village, Vanur Taluk, Villupuram District for a period of five years from 4 July 2005 to 3 July 2010 under Special Rule 8(10-A) of the Tamil Nadu Minor Mineral Concession Rules. Since in a related Writ Petition the High Court granted interim injunction, the respondent could not undertake quarrying operations for the period from 4 August 2006 to 23 July 2008. The respondent therefore filed a Writ Petition in W.P.No.29767 of 2012 to permit quarrying operations for a further period of two years. The Writ Petition was allowed by the learned Single Judge notwithstanding the objection raised by the appellants that there was no provision for such renewal and the remedy is only to claim refund of the proportionate amount.

3. We have heard the learned counsel for the parties.

4. The respondent was the beneficiary of a quarry lease for the period from 4 July 2005 to 3 July 2010. While the respondent was quarrying rough stone, a Writ Petition in W.P.No.4632 of 2006 was filed before this Court, challenging the quarrying operation. The High Court granted interim injunction on 23 April 2007. The injunction was in force till the Writ Petition was disposed of by the High Court by order dated 29 April 2008. In view of the interim injunction, there was no quarrying operation for the period from 4 August 2006 to 23 July 2008. The respondent therefore filed Writ Petition for extension of lease for a further period of two years.

5. The Tamil Nadu Minor Mineral Concession Rules, 1959 is a self contained code. There is no provision in the Mineral Concession Rules for extension of lease beyond the permitted period. Rule 36-E provides for refund of lease amount in appropriate cases, which would be proportionate of the lease amount for the relevant period.

6. There is no dispute that there was an injunction restraining the respondent from undertaking quarrying operations from 4 August 2006 to 23 July 2008. The appellant is therefore

entitled to invoke Rule 36-E of the Rules to make a claim for refund of the proportionate lease amount. However, for the reasons best known, the respondent made a request only for extension of lease and not for refund of the amount.

7. The lease given to the respondent contained not only the total period of five years but even the date of commencement of the lease and its expiry. It was a five year lease which would expire on 3 July 2010. There is no question of extension of lease in the absence of a provision for the grant of such relief. We are therefore of the view that the learned Single Judge was not correct in directing the appellants to extend the lease for a further period of two years. The impugned order is therefore liable to be set aside.

8. In the result, the order dated 17 December 2012 is set aside. The Writ Petition in W.P.No.29767 of 2012 is dismissed.

9. In the upshot, we allow the intra court appeal. No costs.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

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+1 cC to Govt. Pleader sr 74427.

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KGK(CO)
SP(21/11/2017)