

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.19703 of 2003
& WPMP.No.24625 of 2003

C.Dhamodharan

..Petitioner

vs.

1. The Collector,
Virudhunagar District,
at Virudhunagar.

2. The Assistant Director of Geology and Mining,
Virudhunagar. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Certiorarified Mandamus to call for the records of the 1st respondent in O.Mu.K.V.1/1423/2003, dated 5.6.2003, quash the same and consequently direct the first respondent to grant permission to continue the quarry operations for a further period of 5 years in S.No.883/2 of Puthur Village, Rajapalayam Taluk.

For Petitioner : Mr.K.Krishnan for A.Sivaji.

For Respondents : Mr.Akhil Akbar Ali
Government Advocate

O R D E R

The Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus to call for the records of the 1st respondent in O.Mu.K.V.1/1423/2003, dated 5.6.2003, quash the same and consequently direct the first respondent to grant permission to continue the quarry operations for a further period of 5 years in S.No.883/2 of Puthur Village, Rajapalayam Taluk.

2.This Court on 17.09.2003 passed an interim order, however, preventing the petitioner from quarrying.

3.According to the petitioner, the lease was entered into between the parties during the year 1996 and it is valid for five years. In the meantime, the Government had issued

G.O.Ms.No.391(Industries (MMC.1) Department dated 17.01.2000, the relevant portion of amendment in the said G.O., is extracted as under:

''(8)The period of lease for quarrying stone in respect of the virgin areas, which have not been subjected to quarrying so far, shall be ten years. The period of lease for quarrying stone in respect of other areas shall be five years. The period of lease for quarrying sand and other minor minerals, other than the minerals covered under rules 8/A and 8-C of the said Rules, shall not exceed three years and shall not be less than one year and shall be subject to the following conditions, namely:-

(i)The date of commencement of the period of lease granted under this rule shall be the date on which the lease deed is executed.

(ii)The lease shall expire on the date specified in the lease deed and in no case, extension of the period of lease shall be made.''

4.According to the petitioner, even before the five year period was over, the Government Order has come into force and that in terms of Amendment Rules, the petitioner is entitled to another extension and depriving him, the extension runs counter to Rule 8(i) of the Amendment Rules. The contention of the respondents is that the petitioner has completely ignored Rule 8(ii) of the Amendment Rules. Since the period had already expired and as a matter of right, the petitioner cannot seek for extension and ultimately, it is left to the discretion and other norms that the Government Authorities have to follow for extension.

5.Heard both the parties.

6.Admittedly, the lease was entered into between the parties in the year 1996 and it got over in the year 2001. It is also an admitted fact that G.O.Ms.No.391(Industries (MMC.1) Department dated 17.01.2000 came into existence and the relevant Rule is extracted supra. The extension of lease period cannot be automatic, as it is left to the discretion of the authorities. Amendment Rule as a whole has got to be read together and it cannot be read in an isolated manner. So, ultimately, if Rule 8(i) and (ii) is read together, the extension of period of lease shall not be automatic.

7.Hence, I find that there is no reason to grant relief as sought for by the petitioner. That apart, the lease was entered into between the parties in the year 1996 and 20 years have gone by and even if the relief is granted to the

petitioner, it is not going to help any one much less the petitioner on merits. The petitioner's contention cannot be accepted and the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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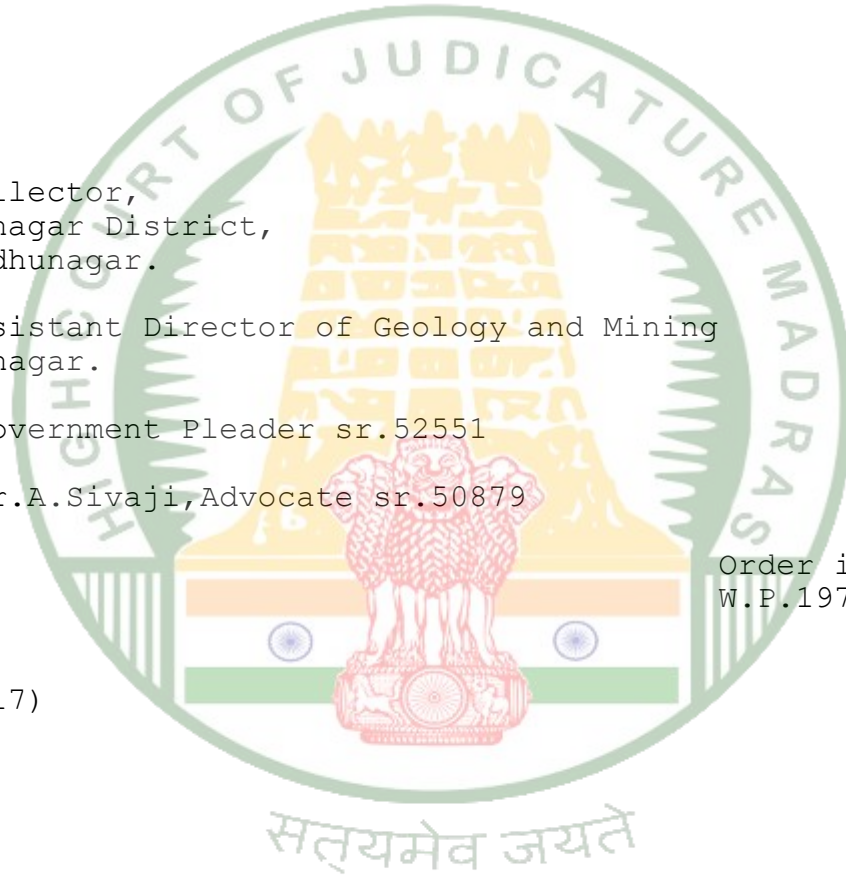
1. The Collector,
Virudhunagar District,
at Virudhunagar.
2. The Assistant Director of Geology and Mining
Virudhunagar.

+1cc to Government Pleader sr.52551

+1cc to Mr.A.Sivaji,Advocate sr.50879

Order in
W.P.19703 of 2003

ss(1/9/2017)



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