

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 22.03.2017****CORAM:****THE HON'BLE MRS. JUSTICE J.NISHA BANU****W.P. (MD) No. 7194 of 2014****and****M.P. (MD) No. 1 of 2014**

Arumugavel

... Petitioner

-vs-

1. The Principal Secretary to Government,
Industries Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Geology and Mining,
Guindy, Chennai - 32.
3. The District Collector,
Ramanathapuram District,
Ramanathapuram.
4. The Assistant Director,
Geology and Mining,
Ramanathapuram,
Ramanathapuram District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent, vide G.O.(D).No.41, dated 28.03.2014 quash the same and consequently allow the petitioner to take Savudu sand from leased out land bearing Survey no.334/3 of an extent of 1.23.5 hectares in Appanur village, Kadaladi Taluk, Ramanathapuram District, for the rest of the lease period pursuant to the representation dated 26.03.2011 given to the 4th respondent.

For Petitioner : Mr.T.Muruganantham

For Respondents : Mr.T.R.Janardhanam,
Addl. Government Pleader**O R D E R**

This writ petition has been filed by the petitioner challenging the order passed by the first respondent vide G.O.(D). No.41, dated 28.03.2014 and for a consequential direction to the respondents to allow the petitioner to take Savudu sand from leased out land bearing Survey No.334/3 of an extent of 1.23.5 hectares in Appanur Village, Kadaladi Taluk, Ramanathapuram



District, for the rest of the lease period, based on his representation, dated 26.03.2011, given to the fourth respondent.

2. The petitioner averred among the other things in the affidavit filed in support of the petition that he was granted license to take Savudu sand for a period of 11 months i.e., from 03.05.2010 to 02.04.2011 in Survey No.334/3, Apannur Village, Kadaladi Taluk, Ramanathapuram District, by the fourth respondent. Due to unanimous letters, the fourth respondent did not allow the petitioner to take the sand without conducting any enquiry. While so, the third respondent issued a show cause notice dated 28.05.2010, for which he has also sent his reply on 05.06.2010. Even after receipt of the same, the respondents did not permit the petitioner to take sand. Hence, he has filed a writ petition in W.P.(MD).No.8428 of 2010 before this Court and this Court, vide order dated 09.03.2011, directed the respondents to permit the petitioner to take savudu sand for the rest of the period i.e., upto 02.04.2011. Since the respondents 3 and 4 did not allow him to take sand for the period from 09.05.2010 to 16.6.2010 i.e., for a period of 33 days, he has sustained heavy loss. Hence, he gave a representation to the third and fourth respondents seeking extension of the lease period. But, the same was rejected on 31.03.2011. As against the same, the petitioner has filed an appeal before the second respondent and the said appeal was dismissed on 05.12.2011. Aggrieved by that orders, he has filed an appeal before the first respondent on 07.01.2012. But, the same was also rejected by the first respondent by the impugned order dated 28.03.2014. Challenging the order of the first respondent, he has come up with this writ petition.

3. The learned counsel for the petitioner submitted that the petitioner has been given lease to take Savudu sand from the patta land only for a period from 03.05.2010 to 02.04.2011. But, the third and fourth respondents have not permitted the petitioner to take Savudu sand as per the license for 33 days, due to which the petitioner has sustained heavy loss. Hence, based on the representation of the petitioner dated 26.03.2011, the respondents ought to have extended the period of lease. But, the respondents erroneously rejected the said request. Hence, this Court may direct the respondents to extend the lease period of the petitioner by setting the impugned order.

4. The learned counsel for the respondents submitted that there is no Rule or Act to extend the lease period. However, by filing fresh application, the petitioner can seek for fresh lease. In the event of the petitioner filing an application seeking fresh lease, the same would be considered by the respondents as early as possible on merits.

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5. Admittedly, the petitioner has not challenged the order, dated 09.03.2011, passed in W.P.(MD).No.8428 of 2010, whereby and



whereunder this Court directed the respondents to permit the petitioner to take Savudu sand for the rest of the period i.e., upto 02.04.2011. Having failed to do so, now he cannot seek for extension of lease period. More over, as rightly contended by the learned counsel for the respondents, there is no Rule or Act to extend the lease period. Hence, the prayer sought for by the petitioner cannot be granted. However, considering the submission of the learned counsel appearing for both sides, this Court directs the petitioner to file an application for fresh lease within a period of three weeks from the date of receipt of a copy of this order and on receipt of such application, the respondents are directed to consider the same and pass appropriate orders on merits and in accordance with law within a period of six weeks thereafter.

6.This writ petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To,

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

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

3.The District Collector,
Ramanathapuram District,
Ramanathapuram.

4.The Assistant Director,
Geology and Mining,
Ramanathapuram,
Ramanathapuram District.

+1cc to Mr.T.Muruganantham, Advocate Sr.No.16807

+1cc to Spl.Government Pleader Sr.No.17039

GCG

VB/SV/MMS/SAR4/19.04.2017/2P/7C