



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.13486 of 2016

and

W.M.P. (MD) No.10075 of 2016

K.Arjunan

... Petitioner

-vs-

1. The District Collector,
Karur District,
Karur.

2. The Assistant Director,
Geology and Mining,
Karur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceeding of the 1st respondent in Na.Ka.No.2/Kanimam/2013 dated 23.12.2015 and quash the same as illegal and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.N.Shanmuga Selvam

For Respondents : Mr.S.Kumar
Addl. Govt. Pleader

O R D E R

This writ petition has been filed, seeking to quash the impugned order of the of the 1st respondent dated 23.12.2015 in Na.Ka.No.2/Kanimam/2013, by which, permission for renewal of license in respect of doing quarry operations was declined by the 1st respondent herein.

2. The facts leading to filing of this writ petition are as follows:

<https://hcservices.ecourts.gov.in/hcservices/>

1) The 1st respondent by proceedings dated 04.03.2002 had granted permission to the petitioner to quarry rough stone from



January 2002 to 2007 as per Rule 19(i) of the Mines and Minerals Concession Rules, which was, on its expiry, renewed on 28.11.2007 for another five years;

ii) Thereafter, when the petitioner again applied for further extension, the respondents have not taken any decision thereon, which forced the petitioner to file W.P.(MD) No.19542 of 2015 to consider his application dated 06.02.2015 and this Court, by order dated 02.09.2015 directed the 1st respondent to dispose of his application within eight weeks. Pursuant to the said direction, the 1st respondent has passed the order dated 23.12.2015, which is impugned in this writ petition and in the impugned order, the 1st respondent herein has stated that there is a dispute with regard to the subject property and a suit is also pending for partition of the property and therefore, the petitioner was suggested by the 1st respondent to first get the title declared so as to consider the grant of quarrying license.

3. Learned counsel for the petitioner would submit that the petitioner is the co-owner of the property and on earlier occasion, license was granted and the same was periodically extended by proceedings dated 28.11.2007 in R.C.No.B.621/G & M/2007 and therefore, the present denial for renewal is contrary to the stand taken by the 1st respondent previously. He would further submit that mere pendency of a suit for partition will not take away the right of the petitioner in continuing his business operations.

4. On the other hand, the learned Additional Government Pleader, by strongly placing reliance on the counter affidavit, would strenuously contend that rough stone quarry lease in respect of patta lands in S.F.No.1281/A3B (0.81.0 hect), 1281/A3A2(1.31.5 Hect) and 1284/1A (0.60.5 Hect) totally to the extent of 2.73.0 hecets was granted to the petitioner on 28.11.2007 for a period of five years. Subsequently, one Thiru K.Saminathan filed a suit in O.S.No.277 of 2013 in I.A.No.847 of 2013 before the learned District Munsif Court, Karur for partition of his share and since the said suit is pending till now and the matter is seized of by the Civil Court, the 1st respondent is not in a position to consider the renewal of license sought for by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6. It is an admitted fact that the suit for partition in respect of the property stated supra is still pending and the co-owners of the property have opposed to the renewal of license in the petitioner. Under such circumstances, the order passed by the 1st respondent cannot be faulted with and it is for the petitioner at the first instance to prove his ownership or



title to the portion of the land, in which the lease for quarry operation is sought for in the pending suit in O.S.No.277 of 2013 on the file of learned District Munsif, Karur and thereafter, pursue the matter regarding renewal of license.

7. It is needless to mention here that in the event of the petitioner obtaining a decree of partition in his favour, it is open to the respondents to consider the request of the petitioner in future and to pass necessary orders on the application for renewal to be filed by the petitioner.

8. This writ petition is disposed of in the above terms . No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Karur District,
Karur.

2. The Assistant Director,
Geology and Mining,
Karur.

+1cc to Mr.N.Shanmuga Selvam, Advocate Sr.No.64075

AR/RM

VB/JC/SAR4/14.07.2017/3P/4C

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