



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

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W.P (MD) No.2920 of 2017

D.Dharmalingam

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Trichy.

2.The Assistant Director of Geology and Mines,
Collectorate,
Trichy.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the respondents to permit the petitioner to carry on quarrying operations for the unquarried period of 5 years for which the petitioner was unable to quarry for no fault of (original period of lease : 02.06.2008 to 01.06.2013) him as per the judgment of the Division Bench in W.A.No.542 of 2012, dated 22.07.2011 in respect of stone quarry situated in Survey No.411/1 Part measuring to an extent of 3.95.5 hectares situated in Serukudi Village, Musiri Taluk, Tiruchirappalli District.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.S.Kumar,
Additional Government Pleader

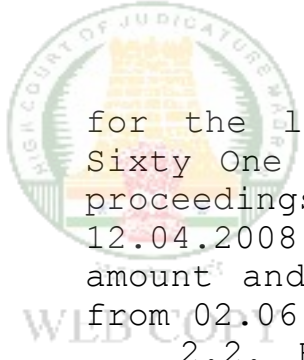
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ORDER

This writ petition has been filed seeking a writ of Mandamus directing the respondents to permit the petitioner to carry on quarrying operations for the unquarried period of 5 years for which the petitioner was unable to quarry for no fault of (original period of lease : 02.06.2008 to 01.06.2013) him as per the judgment of the Division Bench in W.A.No.542 of 2012, dated 22.07.2011 in respect of stone quarry situated in Survey No.411/1 Part measuring to an extent of 3.95.5 hectares situated in Serukudi Village, Musiri Taluk, Tiruchirappalli District.

2. The case of the petitioner, briefly stated, is as follows:

2.1. The petitioner participated in the auction for Government quarry, dated 14.03.2008, in respect of S.F.No.411/1 (Part) to an extent of 3.95.5 hectares. The petitioner became the successful bidder and took the stone quarry



for the lease amount of Rs.3,61,000/- (Rupees Three Lakhs and Sixty One Thousand only) for a period of five years, as per the proceedings of the first respondent in Na.Ka.No.263/2008, dated 12.04.2008. The petitioner paid necessary charges and the auction amount and thereafter, a lease deed was executed for five years from 02.06.2008 to 01.06.2013.

2.2. However, the petitioner could not start the quarrying operations as some persons were residing in that area and he also came to know that a civil suit in O.S.No.99 of 2008 was pending on the file of the District Munsif Court, Musiri, seeking issuance of patta for them. Similarly, electricity service connections were also given in the name of other persons also. Thus, the petitioner made several representations to the authorities seeking to remove those encroachments. Finding no action, the petitioner filed W.P (MD)No.8368 of 2011 before this Court, seeking to remove the encroachments in the land in which the petitioner was permitted to quarry stones. However, the said writ petition came to be dismissed on 05.01.2017. Thereafter, the petitioner gave a representation to the respondents on 08.02.2017, but, no action has been taken so far. Hence, the present writ petition is filed.

3. The first respondent has filed a counter affidavit denying the averments made by the petitioner and in paragraph 7, it is stated as under:

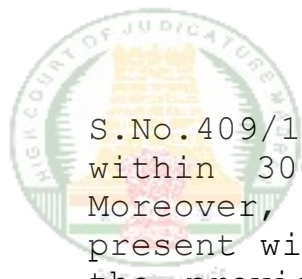
"7. It is submitted that apart from the encroachments made in S.No.411/1 (part) of Serugudi village in Musiri Taluk, two other permanent structures, one a dwelling house in patta S.No.409/1 and two deep borewells of the local bodies are situated within 300 metres radius to the subject area in S.No.411/1 are also present. As per the rule 36(1-A)(c) of Tamilnadu Minor Mineral Concession Rules, 1959, if any inhabited site are present within a radial distance of 300 metres, no lease shall be granted. Therefore, in view of the above the remedy prayed by the petitioner could not be entertained."

4. Heard the submissions of the learned Counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

5. It is seen that the prayer of the petitioner in the above writ petition for removal of encroachments as well as extension of time for five years from the date of handing over of the site, was negatived, but with a liberty to approach the authorities for removal of encroachments alone. Thereafter, the petitioner approached the authorities concerned for grant of lease for the stoppage period of 17 months. Alleging that the same has not been considered so far, the petitioner filed the present writ petition.

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

6. In the counter affidavit filed by the first respondent, it is categorically pointed out that one dwelling house in patta



S.No.409/1 and two deep borewells of the local bodies are situated within 300 metres radius to the subject area in S.No.411/1. Moreover, no lease shall be granted, if any inhabited site are present within a radial distance of 300 metres, in accordance with the provisions of Rule 36(1-A)(c) of Tamil Nadu Minor Mineral Concession Rules, 1959.

7. When that is the factual scenario, the relief sought for by the petitioner for extension of lease period cannot be considered in view of the specific bar imposed regarding quarrying operations within a radial distance of 300 metres from the inhabited area.

8. Further, this Court, by order dated 05.01.2012, dismissed the writ petition filed by the petitioner in W.P(MD)No.8368 of 2011, observing as follows:

"7. Considering the fact that already lease period has come to an end on 01.06.2013, question of evicting the alleged encroachers viz., respondents 3 to 6 does not arise. If at all the quarry operation has been stalled by the alleged encroachments made by the respondents 3 to 6, the petitioner can work out his remedy by way of instituting separate proceedings against the respondents 1 and 2. Since as stated earlier, lease period has already become expired, the relief sought in the writ petition cannot be granted.

8. In fine, this writ petition is dismissed without costs. However the petitioner is at liberty to institute separate proceedings against the respondents 1 and 2 on the basis of alleged encroachments made by the respondents 3 to 6. Consequently, connected Miscellaneous Petition is dismissed."

9. In the light of the aforesaid order passed by the Division Bench of this Court, this Court finds that the claim of the petitioner for extension of lease cannot be considered. Therefore, this writ petition lacks merit.

10. In fine, this writ petition is dismissed, however, granting liberty to the petitioner to seek refund of the amount deposited, if any, for the purpose of renewal of lease. No costs.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(C.S.)

To:

- 1.The District Collector,Collectorate,Trichy.
- 2.The Assistant Director of Geology and Mines,
Collectorate,Trichy.

+1cc to M/S.K.R.KRISHNAN, Advocate SR.No.66540

+1cc to Special Government Pleader, SR.No.66624

rsb

MAS/MR-KKR/SAR1:28.07.2017:3P-5C