



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :06.04.2017
CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE J.NISHA BANU

W.P(MD)No.1500 of 2016
and
WMP(MD) .Nos.1263 and 1264 of 2016

M/s.Madhucon Projects Ltd,
rep.by its Director Mr.K.Srinivasa Rao,
"Madhucon House",
Road No.36, Jubilee Hills,
Hyderabad-500 033

.. Petitioner

Vs.

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Revenue Divisional Officer,
Pudukkottai District,
Pudukkottai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records of the first respondent's impugned proceedings bearing Rc.No.1432/2012 (G& M), dated 11.12.2015, quash the same.

For Petitioner : Mr.K.Ramakrishna Reddy

For Respondents : Mr.B.Pugalendhi
Addl.Advocate General

ORDER

This writ petition has been filed praying for a Writ of Certiorari to call for the records of the first respondent's impugned proceedings bearing Rc.No.1432/2012 (G& M), dated 11.12.2015, quash the same, in and by which, the District Collector has levied penalty amount of Rs.8,63,65,681/- for the illicit quarrying done by the petitioner firm.

<https://hcservices.ecourts.gov.in/hcservices/desktop> The short facts as averred in the affidavit are as follows:-



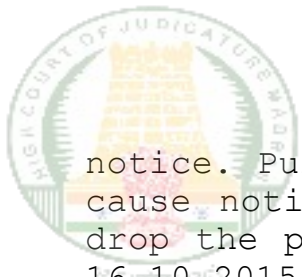
2.1. The petitioner would aver among other things that the petitioner has taken on lease of 3.95.5 hectares from the said petitioner's concerned M/s.Madhucon Land Developers Ltd and applied for stone quarrying lease in respect of the said 3.95.5 hectares of stone bearing patta lands situated in Rakkathampatti Village, Kulathur Taluk, Pudukkottai District in the name of the petitioner and accordingly, the first respondent granted stone quarrying lease in favour of the petitioner. The said lease was for a period of five years from 05.02.2007 to 04.02.2012.

3. While the petitioner carrying on his business activities, it was alleged that as per the Report of the Tahsildar, Kulathur, the petitioner firm has illegally transported the lorry loads more than the permitted levels. As a result, though the lease was existing till 04.02.2012, the quarry operations in the subject quarry were stopped with effect from 15.02.2011. Pursuant to which, the first respondent levied penalty on the petitioner.

4. While the matter stood thus, the second respondent received a fresh inspection report dated 24.07.2012 from the Tahsildar, Kulathur stating that on re-inspection of the subject quarry, it was noticed that in the earlier report, it was mistakenly mentioned that the blue metal quarrying in the subject quarry was 30 meters depth, but factually out of the said pit of 30 meters depth, about 20 meters was debris and the actual stone formation and quarrying of stones was only to a depth of 30 feet (10 meters) and not 30 meters.

5. It is further alleged that in view of the contradictory reports of the Tahsildar, Kulathur, by letter dated 04.12.2013, the first respondent directed for joint inspection of the subject quarry. Thereafter, it was found that the alleged illegal transportation of the mineral was only 350 lorry loads and penalty was levied to the tune of Rs.5,25,000/- and it was alleged that the same was also paid by the petitioner under coercion.

6. In a given situation, the petitioner submitted renewal application of mining lease on 19.12.2012 and the same was denied due to illegal quarrying done by the petitioner. Further, the first respondent also issued a show cause notice to the petitioner dated 16.10.2015 stating that he has quarried illegally and why action should not be initiated as per Section 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959. According to the petitioner, this is not a show cause notice but it is a 'notice of personal hearing'. It is also the case of the petitioner that the first respondent has no jurisdiction to issue the show cause



notice. Pursuant to which, the petitioner replied to the said show cause notice vide his letter dated 02.11.2015 requesting them to drop the proceedings pursuant to the said show cause notice dated 16.10.2015. It is alleged that in view of the Reports of the Assistant Director of Geology and Mining, dated 17.07.2015 and the Report of the Assistant Director of Survey and Land Records dated 23.09.2015, the petitioner was prevented from being renewed the quarry lease which expired on 04.02.2012.

7. Despite the said fact, on 11.12.2015, eventually, the first respondent levied penalty on the petitioner to the tune of Rs.8,63,85,681/- due to illegal quarrying. According to the petitioner, the petitioner is not the owner of the subject lands in which there is alleged evidence of illegal quarrying. With the above said background, he has come forward with the present writ petition.

8. The first and foremost argument of the learned counsel for the petitioner is that the first respondent is not the competent authority to pass the impugned order which is challenged in this writ petition. The first respondent is the appellate authority as against the order passed by the second respondent and hence, he prays for appropriate orders.

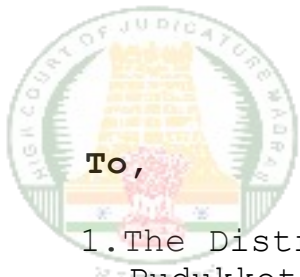
9. The learned Additional Advocate General, on instructions, submitted that the impugned order has been passed by the first respondent / District Collector, but the competent authority is the Revenue Divisional Officer and not the District Collector. In this connection, he has also made a reference to Section 36(A) and 36(C) of the Tamil Nadu Minor Mineral Concession Rules, 1959.

10. In the light of the factual position, the first respondent, being the appellate authority, cannot admittedly pass the impugned order by taking away the valuable right of the petitioner to appeal against the order of the second respondent. The respondents have also not seriously disputed the said factum. Therefore, the order of the first respondent is hereby set aside and the matter is remitted back to the second respondent for fresh consideration, who shall pass orders afresh within a period of four weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True copy/



To,

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Revenue Divisional Officer,
Pudukkottai District,
Pudukkottai.

+1 cc to Mr.S.Kadarkarai , Advocate in SR.No. 50757
+1 cc to Special Government Pleader in SR.No.51169

ssm

AE/RSK/SAR4/08.06.2017/4P/5C

W.P (MD) No.1500 of 2016
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