

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2018

CORAM :

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.26862 of 2011
and
M.P. No. 2 of 2011

R. Palanisamy

..Petitioner

Vs.

1. The Revenue Divisional Officer
Virudhachalam
Cuddalore District.

2. The Assistant Director of
Mines and Geology
Cuddalore
Cuddalore District.

..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka. No. A4/3264/2011 dated 14.09.2011 and quash the same and pass such further orders.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.M.Karthikeyan
Addl.Government Pleader

O R D E R

The Writ Petitioner has challenged the impugned order passed by the 1st respondent in his proceedings Na.Ka. No. A4/3264/2011 dated 14.09.2011, imposing a penalty of Rs.25,20,000/-.

2. The learned counsel for the petitioner would submit that the petitioner is carrying out quarry operations on lease for a period of three years, from 18.05.2010. Whiles, the first respondent passed the impugned order on the reasoning that the petitioner quarried beyond the permitted lease quarry site area.

According to the petitioner, the impugned order has been passed without giving any opportunity to the petitioner and the same has been communicated to the 2nd respondent, directing to collect the penalty amount from the petitioner. Aggrieved by the same, the present writ petition is filed.

3. The learned Additional Government Pleader representing the respondents would submit that if the petitioner is aggrieved by the order of the first respondent, he should have approached the Appellate Authority namely, the District Collector, under Rule 36(c) of Tamil Nadu Minor Mineral Concession Rules, 1959. Therefore, the present writ petition is not maintainable and the same is liable to be dismissed.

4. The above said fact of the learned Additional Government Pleader is not disputed by the learned counsel for the petitioner. The petitioner has come before this Court without exhausting the appeal remedy. Rule 36 (c) clearly states that, any person if aggrieved by any order of the Joint Director, Deputy Director or Assistant Director (Geology and Mining) or any authority subordinate to him in the District office of the Department of Geology and Mining or Revenue Divisional Officer or Tahsildar or Deputy Tahsildar in the Revenue Department or Commissioner of Municipalities and Corporations, Executive Officers of Town panchayats and Townships and presidents of village panchayats made in exercise of the powers conferred on him by these rules or in exercise of any of the powers delegated to him under the provisions of these rules may within 30 days from the date of receipt of the order, prefer appeal to the District Collector concerned. Therefore, the petitioner has to prefer a statutory appeal before the concerned authority. Hence, this Court is of the view that the present writ petition is not maintainable.

5. Accordingly, this Writ Petition is dismissed. However, it is open to the writ petitioner to file an appeal, if so advised, within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

WEB COPY

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

avr

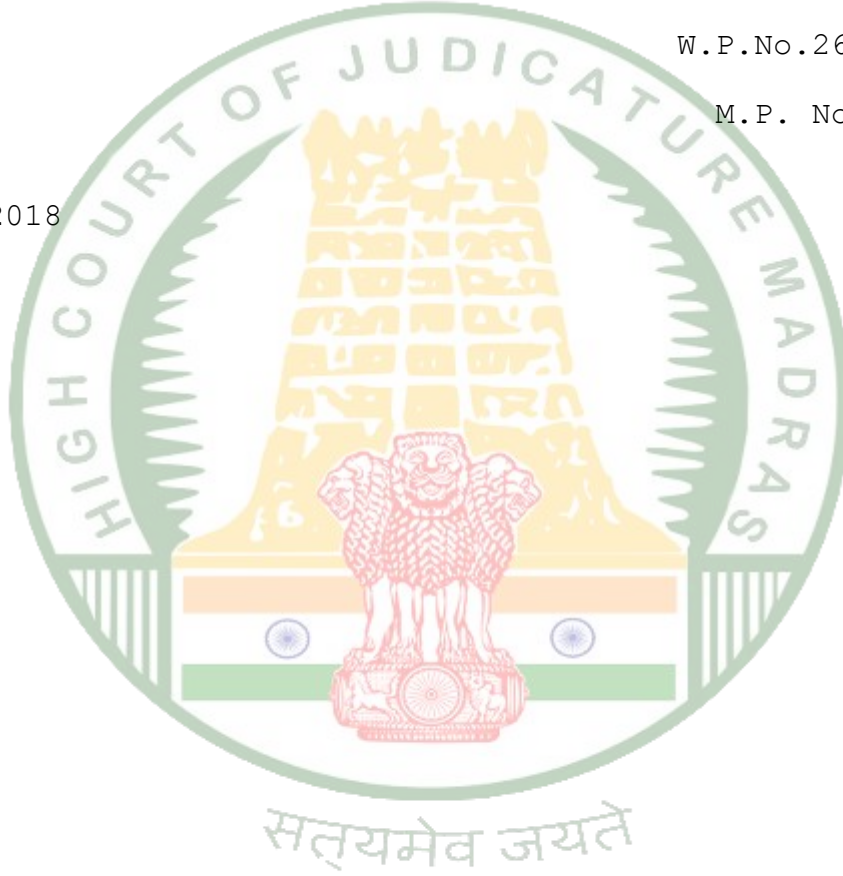
To

1. The Revenue Divisional Officer
Virudhachalam, Cuddalore District.
2. The Assistant Director of
Mines and Geology
Cuddalore, Cuddalore District.

+lcc to Mr.C.Prakasam, Advocate, S.R.No.78814
+lcc to the Government Pleader, S.R.No.78761

W.P.No.26862 of 2011
and
M.P. No. 2 of 2011

CA (CO)
CS/24/12/2018



WEB COPY