

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.5876 of 2011

MP.No.2 of 2011

V.Chennammal

Petitioner

Vs

1.The District Collector, Tiruvannamalai

2.The Assistant Director of Geology and Mining
Tiruvannamalai

Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records, relating to the notice dated 29.10.2010, in Na.Ka.No.1480/Mineral-1-2005 of the 1st Respondent and to quash the same.

For Petitioner : Mr.Ms.AL.Ganthimathi

For Respondents : Mr.M.Karthikeyan, AGP

ORDER

The prayer in this Writ Petition is to quash the notice dated 29.10.2010, in Na.Ka.No.1480/Mineral-1-2005 of the 1st Respondent, demanding interest on the belated payment of dead rent and the area assessment.

2. The case of the Petitioner is that the Petitioner, who was carrying on the business under the name and style of M/s.Chen Granites, had applied for quarrying of multi-colour granites in S.No.1/1, Themudiyannur Village, Chengam Taluk and she was granted quarrying lease, by the proceedings, dated 17.12.1987 for an extent of 40 acres in the said survey number, for a period of five years. Subsequently, the Petitioner could not exploit the revenue lands leased out to her for about one year and hence, she had sent a letter to the 1st Respondent, stating that she did not have enough source to pay the dead rent, at the rate of Rs.3,000/- per hectare and consequently, she had surrendered the said lands to the Department. However, the 1st Respondent had issued a notice, dated 06.02.1991, demanding the Petitioner to remit the dead rent calculated at Rs.97,140/- for the period from 09.12.1988 to 31.12.1990. Immediately, the Petitioner appeared in person

before the Respondent and by a letter, explained in detail that she had already surrendered the entire lands to the Department on 16.10.1989. However, the 1st Respondent, by another notice, dated 31.12.1992, the 1st Respondent demanded the said sum towards dead rent for the said period. Aggrieved by such demand, the Petitioner had filed a Writ Petition in WP.No.4052 of 1993, challenging the said notices and the said Writ Petition was dismissed, by order dated 14.03.2000.

3. It is the further case of the Petitioner that subsequent to the dismissal of the afore said Writ Petition, the Petitioner had paid a sum of Rs.2,62,615/- on various dates towards dead rent for the period from 1988-1989 to 1993-1994. Subsequently, there was no demand made by the Respondents. However, after a long period of ten years, by notice dated 16.09.2010, the 1st Respondent had demanded a sum of Rs.1,77,613/- towards interest for the period from 1988-1989 to 1993-1994 towards dead rent and directed the Petitioner to pay the said sum within a period of 15 days from the date of receipt of that notice, failing which, appropriate proceedings would be initiated to recover the said amount under the Tamil Nadu Revenue Recovery Act. Since there was no amount due and payable by the Petitioner and the notice of the Respondent suffers from laches, the Petitioner did not pay the amount. However, again by another notice, dated 29.10.2010, the 1st Respondent had raised a demand for a sum of Rs.1,77,613/- towards interest towards dead rent and called upon the Petitioner to pay the said sum within a period of 15 days from the date of receipt of that notice, failing which, appropriate proceedings would be initiated to recover the said amount under the Tamil Nadu Revenue Recovery Act. In such circumstances, this Writ Petition has been filed, challenging the said notice dated 29.10.2010.

4. On the other hand, it is the case of the Respondents that the Petitioner was granted, quarrying lease for the period from 23.08.1988 to 22.08.1993 and a sum of Rs.97,140/-/- towards dead rent for the non-operation of quarry for the period from 09.12.1988 to 31.12.1990, was demanded by notices, dated 06.02.1991 and 31.12.1992. The Writ Petition in WP.No.4052 of 1993 filed as against the said notices was dismissed, by this Court, by order dated 14.03.2000. Pursuant to such dismissal, the Petitioner had paid Rs.2,62,615/- towards dead rent and Rs.4,898/- towards area assessment and she admitted herself to remit the balance amount in instalments. As per the Tamil Nadu Minor Mineral Concession Rules, 1959, the lessee is liable to pay dead rent for the non-operation period. The Petitioner had remitted the dead rent and the area assessment fee belatedly on various dates from 31.01.1997 to 29.07.1997 for the lease period from 23.08.1988 to 22.08.1993. Further, as per Rule 36B(1)

of the said Rules, the Petitioner is also liable to pay interest on dead rent and area assessment at the rate of 24% p.a. Rule 36B(2) of the said Rules also provides for initiating proceedings under the provisions of the Tamil Nadu Revenue Recovery Act, 1864. Based on the above said provisions only, for the belated payment of dead rent and area assessment, the impugned notice was issued, preceded by the several demand notices, dated 05.08.2001, 13.04.2006, 15.09.2009, 27.10.2009, 15.02.2010, 17.03.2010 and 01.05.2010 and suppressing the said prior notices, which were issued based on the order of dismissal of WP.No.4052 of 1993, dated 14.03.2000, this Writ Petition has been filed, only challenging the notice, dated 29.10.2010. In such circumstances, this Writ Petition is liable to be dismissed.

5. This Court heard the learned counsel for the Petitioner and the learned Additional Government Pleader for the Respondents.

6. The learned counsel for the Petitioner has vehemently contended that the Petitioner had paid the entire dead rent in the year 1997 itself and hence, the impugned notice is illegal, inasmuch as the Petitioner had already paid the dead rent due and there is no provision under the Act, empowering the Respondents to recover the interest on dead rent, that too after a period of ten years and consequently, the impugned notice is liable to be quashed.

7. On the other hand, the learned Additional Government Pleader for the Respondents would submit that in the light of the Rule 36(B)(1) of the Tamil Nadu Minor Mineral Concession Rules, 1959, the impugned demand of interest on the belated payment of dead rent and the area assessment was made and hence, as per the said provisions, the Petitioner is bound to pay interest to the tune of Rs.1,77,613/- towards dead rent, calculated at the rate of 24% p.a. and that without challenging the earlier notices, dated 05.08.2001, 13.04.2006, 15.09.2009, 27.10.2009, 15.02.2010, 17.03.2010 and 01.05.2010, in other words, suppressing the said notices, the Petitioner has challenged only the notice, dated 29.10.2010 only on the ground of belated demand and hence, the said contention of the learned counsel for the Petitioner regarding belated demand is without any substance and therefore, this Writ Petition is liable to be dismissed.

8. This Court carefully considered the submissions of the learned counsel on either side and also perused the materials on record, including the relevant provisions of the Act and Rules.

9. It is relevant and necessary to quote the provisions of Rule 36B of the Tamil Nadu Minor Mineral Concession Rules, 1959, as under:-

"36B. Levy of interest and recovery of

arrears.-

(1) The district collector or the District Forest Officer or any Officer authorised by them in this behalf, may, without prejudice to the provisions contained in the Act or any other rule in these rules, charge simple interest at the rate of twenty-four percent per annum on any rent, royalty, fee or other sum due to the State Government under the Act or these rules or under the terms and conditions of any quarrying permit or quarrying lease from the sixtieth day of the expiry of the date fixed by the authority concerned for payment of such rent, royalty, fee or other sum and until payment of such rent, royalty, fee or other sum is made.

Provided that in respect of minor minerals, namely, building and road construction stones including gravel, ordinary sand, earth and turf and ordinary clay including silt, brick and tile clay, the powers and duties exercisable and dischargeable by the District Collectors under this sub-rule shall be exercisable and dischargeable by the presidents of the Village Panchayats, Executive Officers of Town panchayat and Townships and Commissioner of Municipalities and Corporations, as the case may be, with in their respective jurisdiction.

(2) The arrears of any amount payable under the Act or these rules may be recovered under the provisions of the Tamil Nadu Revenue Recovery Act, 1864."

10. As rightly pointed out by the learned Additional Government Pleader for the Respondents and in the light of the aforesaid provisions, the impugned demand of interest of Rs.1,77,613- towards dead rent was rightly and properly made, by calculating interest at the rate of 24% p.a.. Further, the said demand was also communicated by several notices from 05.08.2001 to 29.10.2010. After the dismissal of WP.No.4052 of 1993, by order dated, 14.03.2000, the Petitioner had also given a letter to the Respondents, requesting the Respondents to settle the entire amount by instalments.

11. As per Rule 36B(1) of the said Rules, the Petitioner has to pay interest on the belated payment of dead rent and area assessment, in default, the Respondents are empowered to initiate proceedings under the Tamil Nadu Revenue Recovery Act to recover the aforesaid due amount.

Therefore, there is no substance in the contentions of the learned counsel for the Petitioner that the demand was made belatedly after ten years. Consequently, the said contention of the learned counsel for the Petitioner cannot be accepted. Further, there is no ground, much less a valid ground, to interfere with the impugned demand made by the Respondents and consequently, this Writ Petition is liable to be dismissed.

12. In the result, this Writ Petition is dismissed, as devoid of merits. No costs. Consequently, the connected MP is closed.

Sd/-/-

Assistant Registrar (CS)

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Sub Assistant Registrar

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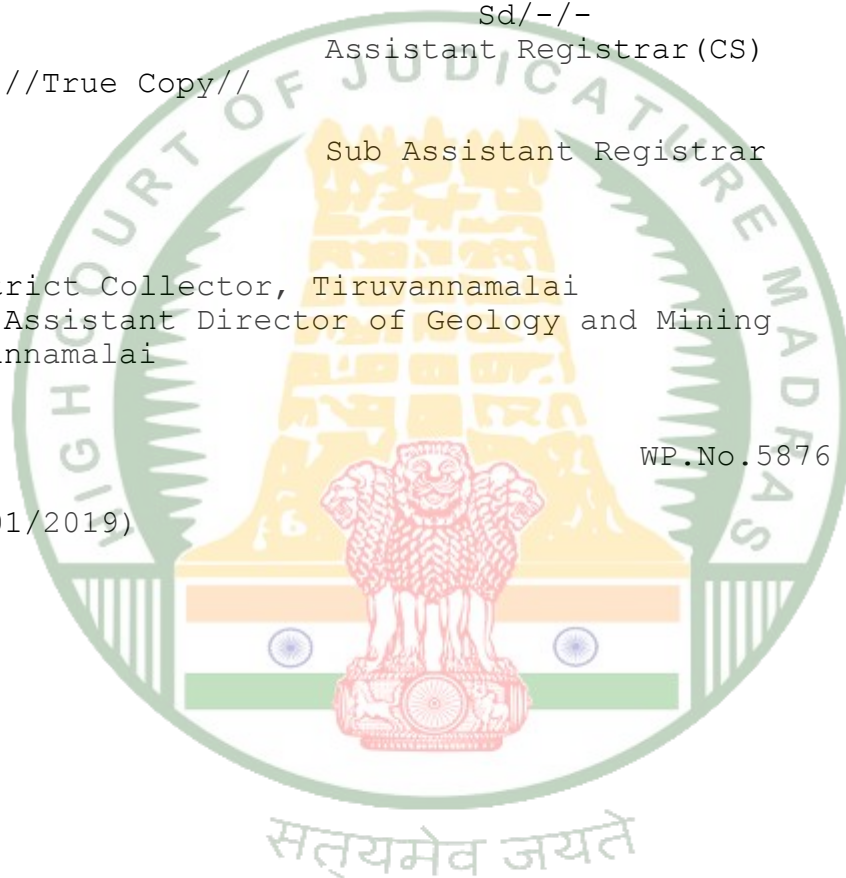
To

The District Collector, Tiruvannamalai

2.The Assistant Director of Geology and Mining
Tiruvannamalai

WP.No.5876 of 2011

ASK(07/01/2019)



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