

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.958 of 2018

S.Duraisamy

.. Petitioner

vs.

1.The District Collector,
Tirupur, Tirupur District.

2.The Assistant Director of Geology and Mines,
Tirupur, Tirupur District.

3.M.Palanisamy

4.R.Sivakumar

(Prayer amended and R3 and R4 are impleaded
as per the order of this Court in WMP.No.3336 of 2018
in W.P.No.958 of 2018 dated 04.10.2018) .. Respondents

Prayer.: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondent to refund the lease amount of Rs.21,00,000/- paid by the petitioner to the Government together with interest at 12% p.a. from the date of payment made by the petitioner to till the actual date of refund with respect to the stone quarry situated in S.f.No.134/1 and 134/9 of Agrahara Periapalayam Village, Uthukuli Taluk. (Prayer amended as per order dated 24/09/2018 made in WMP No.26720/2018.

For Petitioner : Mr.V.P.Sengottuvel

For R1 and R2 : Mr.D.Raghu
Government Advocate

For R3 and R4 : Mr.G.Ethirajulu

O R D E R

The petitioner has filed the Writ Petition seeking a direction to the respondent to refund the lease amount of Rs.21,00,000/- paid by the petitioner to the Government together

with interest at 12% p.a. from the date of payment made by the petitioner to till the actual date of refund with respect to the stone quarry situated in S.F.No.134/1 and 134/9 of Agrahara Periapalayam Village, Uthukuli Taluk.

2. According to the learned counsel for the petitioner, on 22.02.2017, the Tender-cum-Auction was conducted by the first respondent-District Collector with regard to stone quarry in S.F.Nos.134/1 and 134/9. In the aforesaid auction, the petitioner participated and was a successful bidder for the period of five years from 22.02.2012 to 22.02.2022. Thereafter, the petitioner entered lease agreement with the first respondent and deposited a sum of Rs.21,00,000/-towards the auction amount to the Government . In the mean time, the confirmation letter in Memo R.C.No.173/Mines/2017 dated 24.03.2017, the petitioner has been informed to submit Approved Mining Plan and Environment Clearance from the State Level Environment Impact Assessment Authority, Chennai and the same was approved by the Deputy Director, Geology and Mining, Tiruppur. The Committee Members stated that a low tension electric power line running East-west direction situated on the Northern side of the proposed area and residential houses are situated within 300 meters radial distance from the proposed area. The District Level Expert Committee has accepted the report of the Sub Divisional Committee and the same was recommended for rejection of Environment Clearance for the proposed Stone Quarry. In the mean time, the petitioner sent a representation, dated 06.01.2018 to the District Collector and the said representation was not considered. Hence, the petitioner has filed the present writ petition before this Court.

3. After filing the writ petition, the petitioner has filed a petition to amend the prayer of the above said writ petition directing the respondents to refund the lease amount of Rs.21,00,000/- paid by the petitioner to the Government together with interest at 12% p.a. from the date of payment made by the petitioner to till the actual date of refund with respect to the Stone Quarry in S.Nos.134/1 and 134/9 and the same was ordered on 24.09.2018.

4. In the light of the above said background, the writ petitioner seek remedy before this Court. The petitioner has satisfied that the said deposited amount shall be refunded to the petitioner with reasonable interest to be paid to the petitioner at the earliest otherwise, the petitioner would suffer financial loss by depositing the amount to the Department.

5. The learned Government Advocate appearing for the first and second respondents would submit that the assessment authority has not passed any final orders.

6. The learned counsel appearing for the third respondent objected for granting lease deed in favour of the petitioner.

7. Admittedly, no order has been passed by the District Level Expert Appraisal Assessment Authority. Even though, the Sub Divisional Committee has submitted a report on 21.12.2017 at Tiruppur, from the above fact, the petitioner has made an application to obtain Environment Clearance certificate from the Committee and the respondent has delayed in passing the order with regard to the clearance certificate. Certainly, the delay is on the part of the respondent to dispose the said application. But, the petitioner came to know that the District Level Expert Appraisal Assessment Authority has not cleared for quarrying in the subject matter of the said land. Therefore, the petitioner has filed the amendment petition for refund of the aforesaid deposited amount with interest.

8. The District Level Experts Appraisal Assessment Committee recommended for the rejection of the Environment Clearance for the proposed stone quarry in S.F.Nos.134/1 and 134/9. But, in the counter affidavit, it is stated that no final order has been passed. Therefore, in the interest of justice, this Court is inclined to pass the following orders:

i) the first respondent is directed to pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order after providing opportunity to the parties concerned.

ii) It is made clear that in the even/t of any rejection order passed by the District Collector for execution of the lease deed and for granting permission for quarry operations in the aforesaid period, the respondents are directed to consider awarding of reasonable interest for the period from the date of deposited amount, till the date of realisation.

9. Accordingly, this writ petition is disposed of with the above directions. No costs.

Sd/-

Deputy Registrar

//True copy//

Sub Assistant Registrar

kkd

To

1.The District Collector,
Tirupur, Tirupur District.

2.The Assistant Director of Geology and Mines,
Tirupur, Tirupur District.

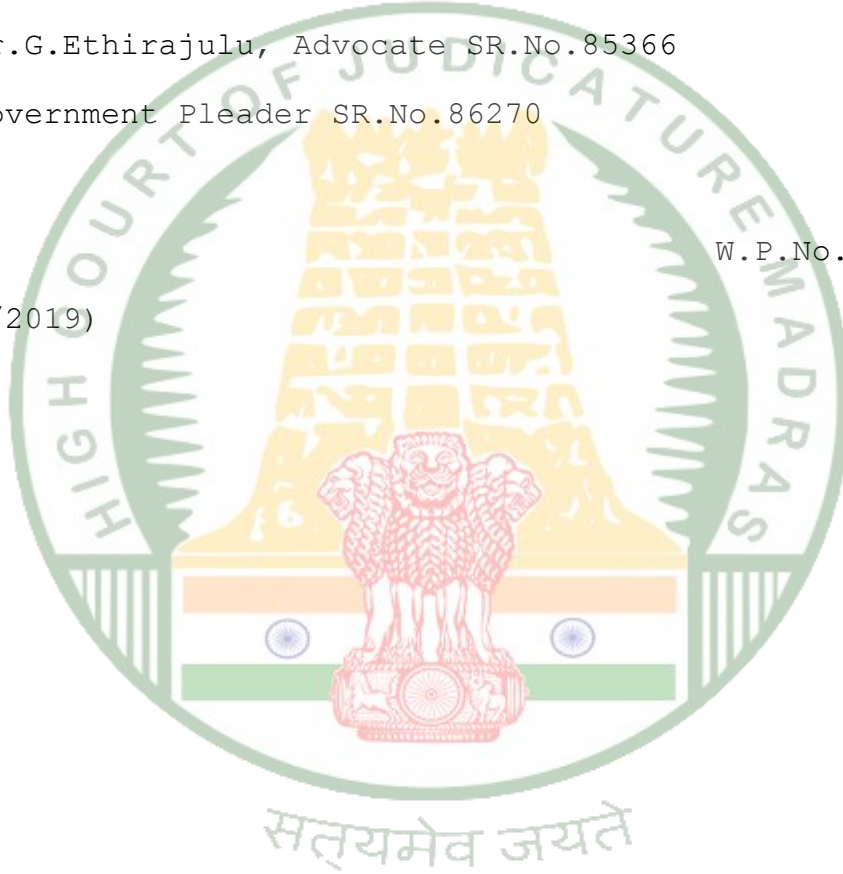
+1cc to Mr.V.P.Sengottuvel, Advocate SR.No.85311

+1cc to Mr.G.Ethirajulu, Advocate SR.No.85366

+1cc to Government Pleader SR.No.86270

W.P.No.958 of 2018

GMV (07/02/2019)



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