



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:04.06.2018
CORAM :

THE HONOURABLE MR.JUSTICE M.S.RAMESH

WEB COPY

W.P(MD).No.15398 of 2017

M.P.Rammohan Raja

... Petitioner

vs.

The District Collector,
Virudhunagar District,
Virudhunagar.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the respondent in Rc.No.KV1/16860/2015, dated 07.10.2016, quash the same and consequently direct the respondent to grant mining lease to the petitioner based on his application, dated 05.05.2015, for quarrying rough stone, jelly and graval in S.F.Nos.777/1, 777/5 and 815/D of Ayyankollamkondam Village, Rajapalayam Taluk, Virudhunagar District.

For Petitioner : Mr.T.Bashyam

For Respondent : Mr.V.Anand
Government Advocate

ORDER

The petitioner has come forward with this petition for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the respondent in Rc.No.KV1/16860/2015, dated 07.10.2016, quash the same and consequently direct the respondent to grant mining lease to the petitioner based on his application dated 05.05.2015 for quarrying rough stone, jelly and graval in S.F.Nos.777/1, 777/5 and 815/D of Ayyankollamkondam Village, Rajapalayam Taluk, Virudhunagar District.

2.Heard both sides.

3.The only ground on which the petitioner's application seeking for grant of lease to quarry rough stone, jelly and graval in his patta land in S.F.Nos.777/1, 777/5 and 815/D of Ayyankollamkondam Village, Rajapalayam Taluk, Virudhunagar District for an extent of 1.18.0 hectares land is that the area on which the lease sought for is a litigation property of the Bank of Baroda, Rajapalayam Branch for an outstanding balance of Rs.251.62 lakhs and that this property has been shown as a security for the outstanding loan.



4.The learned counsel for the petitioner submitted that pursuant to the impugned order, dated 07.10.2016, the petitioner herein had paid the entire over dues of their loan accounts and that their accounts have been described as a standard asset by the Bank. He further submitted that in view of the repayment, Bank of Baroda, Rajapayalam Branch, had also issued No Objection Certificate on 30.05.2017 and the said letter was enclosed along with the petitioner's representation, dated 31.05.2017, to the first respondent herein. In the light of the subsequent development, the learned counsel for the petitioner submitted that the respondent should consider his request for grant of lease favourably.

5.The learned Government Advocate on the other hand submitted that on the date of passing the order the loans were not settled and there is no infirmity in the order. He would further submit that as against the impugned order, an appeal is pending before the Appellate Authority, namely, the Commissioner of Geology and Mining and as such if the petitioner is aggrieved, it is open to him to approach the Appellate Authority.

6.I have given careful consideration to the submissions made by the respective counsels. I do not find any infirmity in the order as such, since on the date of passing the impugned order, the outstanding loan was not settled. However, on a perusal of the No Objection Certificate issued by Bank of Baroda, Rajapalayam Branch, it is seen that the entire over dues have been paid and the Bank has categorically stated that they have no objection if the petitioner's application seeking for lease over to quarry rough stone, jelly and gravel in the patta lands is considered. When the only reason stated for rejecting the petitioner's application is that there are some outstanding dues, it would not be appropriate to direct the petitioner herein to approach the Appellate Authority which would be only a futile exercise. Even otherwise I am unable to apprehend as to how the Appellate Authority can take any other view when the reason stated by the respondent herein is only that the subject property has been given as a collateral security for the outstanding dues which has now been leased out. In the light of this position, it would not be appropriate to direct the petitioner to approach the Appellate Authority and the respondent should reconsider the petitioner's application in view of the subsequent repayment and the issuance of No Objection Certificate by the concerned Bank.

7.In the result, the impugned order in Rc.No.KV1/16860/2015, dated 07.10.2016 on the file of the respondent herein is set aside and the matter is remitted back to the respondent for fresh consideration in the light of the above observations. Such exercise shall be completed by the respondent within a period of six weeks from the date of receipt of a copy of this order.



8.This Writ petition stands allowed accordingly. No costs.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To
The District Collector,
Virudhunagar District,
Virudhunagar.

+1CC to Mr.T.Bashyam, Advocate, SR.No.66569

W.P (MD) .No.15398 of 2017
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