

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 5357 of 2016

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus to declare the action of respondent No.2 in not considering the representation dated 21.06.2014 for waiving the dead rent for the period from 06.07.2010 to 31.03.2014 in respect of the grant quarry lease of Black Granite over an extent of 3.000 hectares in un-surveyed gap area of Ramakrishnapuram village, Palasamudram mandal, Chittoor District vide proceedings No.37615/R5-1/2005, dated 11.03.2010, as illegal and arbitrary.

2) The facts in issue are as under:

The second respondent issued a work order in favour of the petitioner for a period of 20 years, with effect from 10.06.2010. Though the petitioner has not yet commenced mining operations, the Forest Range Officer, Chittoor East Range, inspected the mining operations being carried over the lands situated next to the land of the petitioner, and reported that the petitioner is also carrying out mining operations illegally. Accordingly, a case in OR No.34/2010-11 came to be registered, leading to seizure of a tipper, compressor and two jackies from the site. Basing on the crime registered, the

Divisional Forest Officer, Chittoor East (WL) requested the third respondent to address to respondent No.2, to cancel the mining grant issued to the petitioner, under impression that the petitioner's lease also comes under forest area. Hence, the petitioner filed W.P.No.16402 of 2010, before this Court challenging the action of the respondents in interfering with the mining operations and also to release the seized vehicles. By an order dated 29.09.2010 in W.P.M.P.No.20661 of 2010 in W.P.No.16402 of 2010, this Court ordered release of the vehicles in favour of the petitioner on certain terms and conditions. Thereafter, the vehicles were released vide proceedings dated 06.04.2012 and the enquiry was conducted on 30.03.2012. In the said enquiry, the petitioner submitted a representation dated 01.04.2011, stating that he has not violated any grant order and further submitted that the quarry lease land granted to the petitioner falls in gap area of Ramakrishnapuram village and that it would not come under the purview of the forest lands, as such requested for holding a joint survey. In pursuance to the request made, a joint survey came to be conducted by the Forest and Revenue officials, in which it was found that the land leased out to the petitioner, does not fall within the forest area. The joint inspection was conducted on 25.10.2013 and a joint report was also filed. As no permits were issued inspite of the report, W.P.No.20708 of 2014 came to be filed seeking interim direction,

which was ordered on 24.07.2014. In spite of the said order, no transport permit was issued to the petitioner, on the ground that the petitioner has not paid dead rent from the year 2010 to 2014 and further informed the petitioner that unless the respondents 1 and 2 waive the dead rent, the petitioner has to pay the dead rent for the period 06.07.2010 to 31.03.2014. As such, the petitioner made representation dated 21.06.2014, seeking waiver of dead rent, payable to the Mining Department. The grievance of the petitioner is that though he made representation on 21.06.2014, till date the same is not considered.

3) A counter came to be filed by the third respondent disputing the averments made in the affidavit filed in support of the writ petition. It is stated that since the petitioner failed to pay dead rent a show cause notice dated 19.10.2010 came to be issued, to which the lessee did not submit any explanation. Thereafter, an order came to be passed determining the quarry lease vide proceedings No.21628/R5-1/2015, dated 30.01.2016. The main ground urged by the learned Government Pleader is that since the quarry lease is already cancelled, the question of considering the representation would not arise.

4) From the narration of facts in the affidavit and the counter, it is clear that the petitioner was initially granted licence to the leased

land for a period of twenty years. Immediately, an objection was raised by the Divisional Forest Officer on the ground that lease land falls within the forest area. Pursuant thereto, a joint survey was ordered by this Court, in which it was found that land which was leased out to the petitioner does not fall within the forest area. These facts are not disputed. Thereafter, notices came to be issued asking the petitioner to pay dead rent, though he did not conducted any mining operations. It is urged that once lease is granted, payment of dead rent is mandatory irrespective of any dispute that arises thereafter.

5) It is represented by the learned Government Pleader that the lease came to be terminated since the petitioner conducted default in payment of dead rent and also for the non submission of accounts, which was challenged in W.P.No.11633 of 2016.

6) The grievance of the petitioner appears to be that though he made a representation dated 21.06.2014, seeking waiver of dead rent for the period 06.07.2010 to 31.03.2014, till date the same is not considered.

7) Having regard to the facts and circumstances of the case, the writ petition is disposed of, directing the second respondent to deal with the representation dated 21.06.2014 and pass appropriate

orders at the earliest in accordance with law, if the same is still pending consideration.

8) Miscellaneous petitions, pending if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE C. PRAVEEN KUMAR

30.10.2018

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