

THE HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.10271 of 2016

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

The prayer in the writ petition is as under:

“...to issue writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of 2nd respondent in proceedings No.16310/R4-1/2009, dated 9.8.2010 and the orders of the 1st respondent-Revisional Authority in Memo.No.808/M.I(1)/2015-1 dated 3.3.2016 dismissing the revision filed by me against Determination Orders of 2nd respondent dated 9.8.2010 without assigning any reasons as arbitrary, illegal, unconstitutional, in violation of principles of natural justice and contrary to the provisions of APMMC Rules 1966 read with Mines and Minerals (Development & Regulation) ACT, 1957 and consequently call for records and set aside the same and pass such other order or orders as the Hon'ble Court deems fit and proper in the interest of justice.”

The facts of the case are that the petitioner was granted quarry lease for black granite for an extent of one hectare in Sy.No.1556/P situated at Thanakallu village and Mandal, Ananthapuram District for a period of 20 years by the 2nd respondent in proceedings No.39865/R4-3/04, dated 4.3.2005. Pursuant to the said grant of quarry lease, the 3rd respondent executed lease deed and issued work orders in proceedings No.528/Q2/05, dated 15.3.2005. Since the date of grant, the petitioner was conducting quarry operations in terms of the lease deed. In the month of October, 2010, the petitioner approached the

3rd respondent for permits whereupon she was informed that the permits cannot be issued as mineral revenue dues are pending. Petitioner informed the 4th respondent that she could not deposit the advance dead rent for the year 2009-10 due to financial problems as there was a slump in the market. However, the petitioner appears to have deposited the advance dead rent for the year 2010-11 besides 2009-10 along with interest for issuance of permits. In the circumstances, the lease granted in favour of the petitioner was determined vide proceedings dated 9.8.2010. However, she was given a copy of the order on 6.1.2015. Immediately she filed a revision before the Government on 19.1.2015. After hearing, the Government has dismissed the revision petition filed by the petitioner in Memo.No.808/M.I(1)/2015-1, dated 3.3.2016. Aggrieved by the said proceedings, the present writ petition is filed.

Learned counsel appearing for the petitioner would submit that the petitioner has already deposited the dead rent for Rs.19,600/- and Rs.23,640/- vide Challan Nos.46715 and 46718 dated 10.12.2010 and interest of Rs.10,400/- and Rs.5,600/- vide Challan Nos.46716 and 46717 dated 10.12.2010. Learned counsel further contend that he could not file revision petition before the Government due to domestic and financial problems.

Per contra, the 2nd respondent filed counter affidavit denying the averments made in the affidavit filed in support of the writ petition and contended *inter alia* that there are no merits in the writ petition and the same is liable to be dismissed for the reason that the breaches as pointed out by the 3rd respondent in Letter

No.528/Q2/BG/05 dated 15.4.2009 could not be complied with by the petitioner. The said breaches are as follows:

- “2. Smt.V.Sreedevi has not submitted quarterly returns in Form- ‘C’ as required under rule 28(3) of APMMC Rules, 1966.
3. Smt. V.Sreedevi has not submitted accounts for the year 2007-08 for verification, it is a breach of covenant 7 of clause 8 of Form-‘G’ of quarry lease deed and read with rule 28(4) of APMMC Rules, 1966.
4. Smt.V.Sredevi has not submitted Form-‘F’ as required under rule 30 of APMMC Rules, 1966.
5. Smt. V.Sreedevi has not submitted the latest approved mining plan within 2 years though 2 years period was over by 4.3.2007 under rule 12(5)(iii) of APMMC Rules, 1966 and as per G.O.Ms.No.186 Ind&Com dt.30.4.2002.”

As the petitioner has not complied with the said breaches, the 2nd respondent issued show-cause notice to the petitioner vide No.16310/R4-1/2009 dated 13.5.2009 seeking explanation within 15 days as to why action should not be taken for determination of the quarry lease for rectification of the above breaches, failing which orders will be passed. After receipt of the show-cause notice, the petitioner submitted explanation dated 23.5.2009 stating that the pattadars have withdrawn the patta consent and raised dispute for quarrying operations. The 2nd respondent enquired with the 3rd respondent as to whether the petitioner has rectified any breaches committed by her or not. The 3rd respondent vide letter No.2692/Q2/BG/2007 dated 20.4.2010 and 16.6.2010 informed that the lessee has not rectified the committed breaches and accumulated arrears upto Rs.84,235/-. Basing on the field report, the 2nd respondent vide proceedings No.16310/R4-1/2009 dated

9.8.2010 determined the quarry lease and forfeited the security deposit.

Though the breaches have been clearly indicated in the counter affidavit, no reply has been filed. However, the learned counsel sought time to rectify and comply with the breaches as pointed out supra.

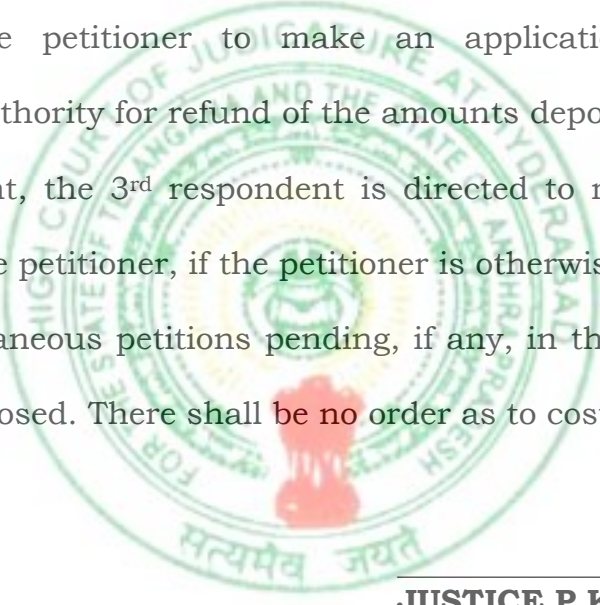
Be that as it may, aggrieved by the proceedings dated 9.8.2010, the petitioner herein filed revision before the 1st respondent on 19.1.2015. It appears, in the said revision, the petitioner has stated that the revision could not be filed within the stipulated time due to domestic and financial problems. It is also relevant to mention that the revision was filed after a lapse of four years two months. Therefore, the respondents sought dismissal of the writ petition.

From the perusal of the material on record would indicate that though the petitioner has paid dead rent and other amounts along with interest to the authorities on 10.12.2010 itself and as submitted by the learned counsel for the petitioner that the petitioner was roaming around the office of the respondents for issuance of permits, the question of petitioner not knowing the determination orders dated 9.8.2010, cannot be believed. It is also contended by the counsel for the petitioner that the petitioner has not even received the show cause notice. In the counter affidavit, it is categorically mentioned in paragraph 6 that the petitioner has submitted reply dated 23.5.2009 . Even for that also, the petitioner has not filed any reply denying the said aspect. However, the reason as shown by the petitioner for not filing the revision petition before the revisional authority even after lapse of 4 years 2 months

is not convincing. In the present set of facts of the case, this Court is of the opinion that the petitioner has not properly explained the said delay for condoning the extraordinary delay of 4 years 2 months and is not diligent in pursuing the matter. That apart, even on merits also, when the petitioner has not rectified and complied with the breaches as stated supra, she is not entitled to restoration of the quarry lease. Therefore, this Court feels that there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. However, it is open for the petitioner to make an application before the competent authority for refund of the amounts deposited by her. In such an event, the 3rd respondent is directed to refund the said amount to the petitioner, if the petitioner is otherwise eligible.

Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed. There shall be no order as to costs.



JUSTICE P.KESHA RAO

Date: 19/04/2018

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