

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.07.2019
CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.10139 of 2009 and WMP.No.3750 of 2019
and
W.P.No.11103 of 2008 and M.P.No.2 of 2008 and 1 of 2011

A.Muthusamy Gounder,
S/o.Avinashi Gounder.
...Petitioner

in W.P.No.10139 of 2009

N.Chinnasamy,
S/o.Nachimuthu.
...Petitioner

in W.P.No.11103 of 2008

Versus

The District Collector,
Office of the District Collector,
Department of Geology and Mines,
Coimbatore-18.

...Respondent in both W.Ps.

COMMON PRAYER: Writ petitionS filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the respondent by proceedings in NAKA No.443/2007/MM2 dated 27.04.2009 and NAKA No.425/2007/50/MM1 dated 26.12.2007 and quash the same.

For Petitioner

in W.P.No.10139/2009:
in W.P.No.11103/2008 : Mr.P.Saravana Sowmiyan

For Respondent

: Mr.J.Ramesh
Additional Government Pleader

COMMON ORDER

These petitions have been filed seeking to quash the proceedings in NAKA No.443/2007/MM2 dated 27.04.2009 and NAKA No.425/2007/50/MM1 dated 26.12.2007.

2.The petitioners were granted quarry lease from 06.06.1991 to 05.06.1994 and from 22.10.1994 to 21.10.1999 respectively in their patta lands by the respondent under the Tamil Nadu Minor Mineral Concession Rules. At the relevant point of time, the Government of Tamil Nadu vide G.O.Ms.No.335, Industries (MMC I) Department dated 4/8/1992 have increased the collection of Seigniorage Fee. The said G.O. was challenged by the Building Materials Transport Owners Association in W.P.No.13306 of 1992 and this Court by an order dated 13.09.1992, as an interim order, permitted the members of the Association to pay the seigniorage fee under old rate. The petitioners are also one of the members of the Association. However, the said writ petition was dismissed on 13.10.1999, against which an writ appeal was filed in W.A.No.2420 of 1999, wherein this court granted interim stay by an order dated 26.04.2000 and the same was extended for another seven weeks and thereafter, the said writ appeal came to be dismissed in the year 2005. The petitioners have paid the seigniorage fee at the old rate. The petitioners lease period expired in the year 1994 and 1999 respectively. After the dismissal of the writ appeal, the petitioners have paid only the difference of seigniorage fee. Since, the petitioners have paid only the difference seigniorage fee, a demand notice dated 27.04.2009 and 26.12.2007 were issued by the respondent directing the petitioners to pay the interest for the belated payment of seigniorage fee from 22.06.1994 upto the date of payment of difference seigniorage fee as per rule 36B of Tamil Nadu Minor Mineral Concession Rules, 1959. Aggrieved by the same, the petitioners have filed the present writ petitions with the aforesaid prayer.

3.Heard Mr.Saravana Sowmiyan, learned counsel appearing for the petitioners and Mr.J.Ramesh, Additional Government Pleader, appearing for the respondent.

4.The learned counsel for the petitioners submitted that after dismissal of the writ appeal, though the petitioners have paid the entire seigniorage fee, the respondent without furnishing any details imposed exorbitant seigniorage fee invoking 36 B of Tamil Nadu Minor Mineral Concession Rules, 1959, which is unsustainable one. Accordingly, he prays for allowing the petition.

5.The learned counsel for the respondent acceded to fact that the respondent has not provided any details with regard to the demand of difference of seigniorage fee. Hence, he requested this court to remand back these matters to the concerned authority for further orders.

6.On perusal of records, it is seen that after dismissal of the W.A.No.2420 of 1999 dated 15.03.2005, the respondents have

passed impugned orders dated 27.04.2009 and 26.12.2007 demanding interest on the difference of seigniorage fee of Rs.4,04,152/- and Rs.2,09,504/- respectively. However, the impugned order did not disclose any details regarding the period from which period to which period the interest is demanded. Though, the learned counsel appearing for the respondent filed a detailed counter affidavit in W.P.No.10139 of 2009 furnishing the details, cannot be accepted now. Without furnishing any details, the impugned order passed is an unsustainable one. Therefore, I am inclined to set aside the impugned order and remand the matters back to the concerned authority.

7. Accordingly, these writ petitions stand allowed and the impugned order passed by the respondent in Na.Ka No.443/2007/MM2 dated 27.04.2009 and Na.Ka No.425/2007/50/MM1 dated 26.12.2007 is set aside and the matters are remanded back to the appropriate authority. The authority concerned can pass orders afresh after affording an opportunity to the petitioners. No costs. Connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The District Collector,
Office of the District Collector,
Department of Geology and Mines,
Coimbatore-18.

+1cc to Mr.P.Saravana Sowmiyan, Advocate, S.R.No.63187

+1cc to the Government Pleader, S.R.No.63386

W.P.Nos.10139 of 2009
and 11103 of 2008

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RSV(CO)
SP(29/08/2019)