

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.20429 & 20793 of 2011
M.P.No. 1 & 2 of 2011
and
W.M.P.No. 5002 of 2017

M/s.Indiana Minerals and Allied Industries,
Rep. by its Proprietor, R.Palanisamy,
35/B-12, Rajendra Nagar,
Sankari Road, Thiruchengode - 637 211,
Namakkal District. ...Petitioner in W.P.No.20429 of 2011

M/s.Shri Malliga Mines and Minerals,
Rep. by its Managing Partner,
M.Nallanasamy,
Makkiripalayam,
Sowdapuram Post, Pallakapalayam Via,
Erode - 638 088. ...Petitioner in W.P.No. 20793 of 2011

Vs.

- 1.The District Collector,
Namakkal District, Namakkal.
2. The Assistant Director,
Department of Geology and Mining, Namakkal.
3. The Thasildar,
Taluk Office,
Thiruchengode Taluk, Thiruchengode.

...Respondents

Common Prayer: The writ petitions filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the 1st respondent vide proceedings in Na.Ka.No.218/2010/Mines dated 13.08.2011 and quash the same.

For Petitioners : Mr.G.Arul Murugan
For Respondents : Mr.J.Ramesh
Additional Government Pleader.

C O M M O N O R D E R

Since the prayer in the above Writ Petitions are one and the same, they are clubbed together and a common order is passed.

2. The petitioner in WP.No.20429 of 2011 is referred to as the first petitioner and the petitioner in WP.No.20793 of 2011 is referred to as the second petitioner.

3. The first petitioner / Indiana Minerals Allied Industries is a Proprietor concern involved in the field of mining operation. The Government by G.O.Ms.No.1592, Industries Department dated 02.11.1973, granted lease in favour of the petitioner to quarry lime stone to a total extent of 6.25 acres (including both Patta and Government Poramboke lands) of Soudapuram Village, Thirchengode Taluk, Namakkal District (formerly Salem District) for a period of 20 years. The mining lease expired on 25.11.1993 and pursuant to the application made for renewal of lease on 10.11.1992, the first petitioner was granted renewal of mining lease for further period of 20 years.

4. The second petitioner / Shri Malliga Mines and Minerals is a partnership concern involved in the field of mining operation. The Government by G.O.(3D) No.38, Industries (MMDI) Department dated 09.03.2000, granted lease in favour of the petitioner to quarry lime stone to a total extent of 1.17.0 Hectares of Odai Poramboke land situated in S.No. 140, Sowdapuram Village, Tiruchengode Taluk, Namakkal District for a period of 20 years.

5. Under such circumstances, the first respondent issued orders in proceedings dated 13.08.2011, in Na.Ka.218/2010/Mines directing the first and second petitioners to pay a sum of Rs.10,70,160/- and Rs.8,90,120/- respectively within a period of 15 days, towards the annual revenue loss due to the lease granted in the Government Poramboke lands that too for the period from 1997 and 2000 respectively. The order of the first respondent states that on his instructions, the third respondent has submitted a report to him stating that in respect to the poramboke lands over which the mining lease is granted, he has fixed the revenue at Rs.2,00,000/- per annum for one acre and out of which 14% is determined and fixed as compensation towards revenue loss. Thereafter, the first respondent passed an impugned order only based on the report of the third respondent. Hence, the writ petition.

6. The learned counsel appearing for the petitioners submit that the respondents have power to fix the compensation in respect of Government lands. The third respondent has never

issued any notice to the petitioner calling for enquiry for fixing the compensation and they have arbitrarily fixed the revenue loss as Rs.2,00,000/- per acre for one year which is without any basis. He would further submit that the order of the first respondent which is passed without issuing any notice is against the principle of natural justice and the same is liable to be quashed.

7. It is pertinent to point out that the petitioners did not dispute the power of the 1st respondent for fixing the annual compensation. However, the petitioners question that fact that they have not been issued any notice before fixing the compensation. A perusal of the impugned order also shows that the same is passed without following the due process of law. This Court is inclined to set aside the impugned order of the first respondent, dated 13.08.2011. The matter is remanded back to the first respondent for fresh consideration and passing of orders, after affording sufficient opportunities to both the parties.

8. With the above terms, the present writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

kmm

To

1.The District Collector,
Namakkal District, Namakkal.

2. The Assistant Director,
Department of Geology and Mining, Namakkal.

3. The Thasildar,
Taluk Office,
Thiruchengode Taluk, Thiruchengode.

+2 CCS to Mr.G.Arul Murugan, Advocate sr 75348, 75349.

+1 CC to The Govt. Pleader sr 76178

W.P.Nos. 20429 & 20793 of 2011

NRL(CO)

SP(18/11/2019)