



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2019

CORAM

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

W.P.Nos. 14199 of 2010 and 19362 of 2014
and

MP.Nos.1 and 2 of 2010 and 1 of 2014

N. Padmavathy

...Petitioner in both W.Ps.

-Vs-

1. The District Collector,
Thiruvannamali District,
Thiruvannamalai.

2. The Revenue Divisional Officer,
Cheyyar, Thiruvannamalai District.

3. The Deputy Director (Geology and Mining)
Office of the District Collector,
Thiruvannamalai-606 604.

... Respondents in both W.Ps.

PRAYER in W.P. No.14199 of 2010:

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a writ of certiorari or any other appropriate writ or order or direction in the nature of writ calling for the records of the first respondent relating to the order passed in letter Na.Ka.No.307/Kanimam-2/2008 dated 5.1.2009, quash the same.

PRAYER in W.P. No.19362 of 2014:

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a writ of certiorari or any other appropriate writ or order or direction in the nature of writ calling for the records of the second respondent Revenue Divisional Officer relating to the order passed in Ref.Na.Ka.A2/3868/2008 dated 27.06.2014, quash the same.

For Petitioner : Mr. V. Sanjeevi

For Respondents: Mr. E. Manohar, AGP



COMMON ORDER

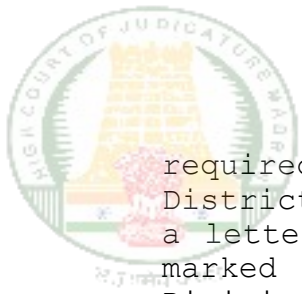
The case of the petitioner is that the District Collector, Thiruvannamalai District published the notice in the Thiruvannamalai District Gazette Extra-ordinary Issue dated 20.03.2008 calling for Tender-cum-Auction for several stone quarries including the land bearing survey No.111 admeasuring 2.00 hectares in Avaniapuram Village, Vandavasi Taluk for grant of lease for quarrying stones for a period of five years.

2. The petitioner participated in the auction held on 22.4.2008 by remitting a sum of Rs.25,000/- towards Earnest Money Deposit (EMD) and Rs.1,500/- towards Application fee. In the auction, the petitioner offered a sum of Rs.7,50,000/- as one time lease amount for the said stone quarry. Since the petitioner's offer was the highest bid in Tender-cum-Auction, the petitioner was required to pay 10 per cent of the bid amount immediately as required under law. Accordingly, the petitioner remitted 10 per cent of the bid amount immediately and the petitioner also remitted the balance amount of 90 per cent within time.

3. The District Collector by order dated 27.05.2018 required the petitioner to furnish the original remittance challan for payment of Rs.75,000/- towards security deposit, non-judicial stamp papers to the value of Rs.10,500/- and the remittance challan for Rs.1000/- towards area assessment within 15 days for the execution of lease deed.

4. The learned counsel for the petitioner submitted that the District Collector by memorandum dated 25.06.2008 asked the Tahsildar, Vandavasi to furnish the sketch (map) of the leasehold area marking with colour with approval of the Tahsildar, Vandavasi for execution of lease deed, copy of the said memorandum dated 25.06.2008 is marked to the petitioner with a direction to approach the Tahsildar to get the above sketch.

5. On second week of July 2008, the Tahsildar Vandavasi sent the sketch to the District Collector for leasehold area with necessary records. On 1.12.2008, the respondent District Collector again by memorandum dated 1.12.2008 required the production of another sketch for the area with colour marking with three copies by the Tahsildar, Vandavasi and copy of the said memorandum was also marked to the petitioner with a warning that in the event of not getting the report from the Tahsildar within 10 days, all the amounts remitted by the petitioner will be forfeited and the action will be taken to cancel the lease. Again on 28.12.2008, the Tahsildar Vandavasi sent all the



required details/report and the sketch to the respondent District Collector. On 05.01.2009, The District Collector sent a letter to the Revenue Divisional Officer, Cheyyar with a copy marked to the petitioner where it is stated that the Revenue Divisional Officer, Cheyyar in his letter dated 20.06.2008 stated that the petitioner quarried stones from the land bearing S.No.111 in Avaniapuram Village even before granting lease, she stocked 96 loads of stones and 22 loads of jelly in Survey No.48/1 in Avaniapuram Village and the Tahsildar, Cheyyar was required to seize and keep them in safe custody.

6. Further the District Collector directed the Revenue Divisional Officer, Cheyyar to take action under Rule 36 (A) of the Tamil Nadu Minor Mineral Rules, 1959, levy penalty on the petitioner and her husband, collect the fine amount for the act of illicit quarrying of stone and send a report.

7. The petitioner aggrieved by the order of the District Collector dated 05.01.2009, pursuant to which, the Revenue Divisional Officer passed an order on 27.06.2014 directing the petitioner to pay the penalty amount. As both the orders were passed without issuing any notice and without conducting any enquiry, the petitioner preferred the above Writ Petitions.

8. Mr. V. Sanjeevi, the learned counsel for the petitioner would submit that on a fair perusal of the order of the District Collector and the subsequent order of the Revenue Divisional Officer order, it is clear that the respondents did not follow the basic principles of natural justice, by not issuing any show cause notice and not conducting any enquiry, and with a malified intention passed the impugned orders, which are wrong, illegal and unsustainable in law, accordingly prayed for allowing the Writ Petitions.

9. Mr. E. Mahohar, Additional Government Pleader, after perusing the impugned orders would fairly concede that the impugned orders do not reflect the issuance of show cause notice and enquiry and hence it is apparent that without giving any notice orders were passed and requests that this Court may remand back the matter to the District Collector for fresh enquiry by following the due procedure by issuing a fresh show cause notice followed by enquiry and after hearing the parties, orders may be passed on merits and in accordance with law.

10. In view of the undisputed fact as stated above, even on perusal of the impugned orders in the Writ Petitions either the District Collector or Revenue Divisional Officer without hearing the petitioner have passed orders which are unsustainable one. The orders impugned in both the Writ Petitions are in violation of the principles of natural justice and hence I am inclined to



set aside the orders passed by the District Collector and the Revenue Divisional Officer. The matter is remanded back to the Revenue Divisional Officer second respondent and the Revenue Divisional Officer shall pass appropriate orders, without being influenced by the District Collector's order dated 5.01.2009, after following the due procedure in law, by issuing notice, conducting enquiry and affording opportunity to the petitioner to put forth her case.

11. The Writ Petitions are allowed on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

mrn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Thiruvannamali District,
Thiruvannamalai.

2.The Revenue Divisional Officer,
Cheyyar,
Thiruvannamalai District.

3.The Deputy Director (Geology and Mining)
Office of the District Collector,
Thiruvannamalai-606 604.

+1cc to Mr.V.Sanjeevi, Advocate, SR.No.53702/19

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Kak(13/09/2019)