

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.07.2019
CORAM

THE HON'BLE Mr. JUSTICE M.DHANDAPANI, J.
W.P.No.17024 of 2010
M.P.Nos.2 & 3 of 2010

K.Manokaran

...Petitioner

vs

1. The Secretary to Government
Industries Department,
Fort St.George, Chennai-9.

2. The Commissioner and Director of Mines
and Geology, Guindy,
Industrial Estate, Chennai-32.

3. The District Collector,
Erode District, Erode.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings No.Na.Ka.16662/2008/X-1, dated 27.05.2008 which was confirmed by the 2nd respondent in his proceedings Na.Ka.No.10316/M.M.2/2008, dated 12.10.2009 and the same was confirmed by the 1st respondent in G.O.(D).No.108, Industries-MMC-(1), dated 06.07.2010 and quash the same and consequently direct the respondents to allow the petitioner for quarrying the stone situated in S.No.760/6, Kambiliampatti Village, Kangayam Taluk, Tiruppur District for the remaining period together with the period already stopped by the 3rd respondent.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.J.Ramesh
Additional Government Pleader

O R D E R

The petitioner has filed a writ petition for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings No.Na.Ka.16662/2008/X-1, dated 27.05.2008 which was confirmed by the 2nd respondent in his proceedings Na.Ka.No.10316/M.M.2/2008, dated 12.10.2009 and the same was

confirmed by the 1st respondent in G.O.(D).No.108, Industries-MMC-(1), dated 06.07.2010 and quash the same and consequently direct the respondents to allow the petitioner for quarrying the stone situated in S.No.760/6, Kambiliampatti Village, Kangayam Taluk, Tiruppur District for the remaining period together with the period already stopped by the 3rd respondent.

2. The case of the petitioner is that he was leased out stone quarry by the 3rd respondent on 28.08.2006 for quarrying the stone in S.No.760/6, Kambiliampatti Village, Kangayam Taluk, Tiruppur District for the period of 5 years i.e., from 28.08.2006 to 27.08.2011. The petitioner made an application for granting lease in his patta land, the Revenue Divisional Officer, Erode and Assistant Director of Mines and Geology have inspected the above said quarry site and submitted their report before the 3rd respondent herein. The 3rd respondent after perusal of the above said report, the 3rd respondent herein passed orders in his proceedings No.Na.Ka.25886/2006/X-1, dated 28.08.2006 whereby granting lease for stone quarry for period of five years, in this connection the lease agreement was executed by the 3rd respondent in favour of the petitioner.

3. When the petitioner was working the quarry work, one Ramasamy Gounder have applied for stone quarry lease before the 3rd respondent, land situated in S.No.760/5, Kambiliampatti Village, Kangayam Taluk, Tiruppur District, the District Revenue Officer came to the said Ramasamy Gounder's land, after inspection was over, he made recommendation before the 3rd respondent for canceling the petitioner's lease, since the petitioner's quarry is situated nearby residence, which is situated 120 meter away from the above said Ramasamy Gounder's land. He submitted a adverse report against the petitioner before the 3rd respondent, the report also not furnished to the petitioner, but the 3rd respondent on the basis of the said report cancelled the petitioner's quarry lease in proceedings No.Na.Ka.16662/2008/X-1, dated 27.05.2008. Against which, the petitioner has filed a writ petition in W.P.No.23227 of 2009 before this Court on 13.11.2009 and this Court was pleased to direct the petitioner to prefer Revision before the 1st respondent. Accordingly, the petitioner has preferred Revision before the 1st respondent on 24.11.2009 along with stay application, but no orders has been passed.

4. Once again, the petitioner has approached this Court in W.P.No.1341 of 2010 dated 28.01.2010 and this Court has directed the 1st respondent to dispose the revision petition within two weeks from the date of receipt of a copy of this Order. The 1st

respondent has received the order copy on 16.02.2010 but no orders has been passed by him.

5. After a lapse of six months, the 1st respondent has rejected the revision and passed impugned G.O.(D).No.108, Industries-MMC-(1), dated 06.07.2010. Challenging the said impugned order, the present writ petition is filed.

6. The learned counsel for the petitioner would submit that the respondents have failed to consider that as per Rule 36(1-A) (C) of Tamilnadu Minor Mineral Concession Rules, 1957, after quarry lease was granted. If the residential houses are constructed within 300 meters from quarry site, then the 3rd respondent should send proposal to the 2nd respondent for obtaining approval and then only the lease should be cancelled, that too, after giving reasonable opportunity to the lessee. But, in the instant case, after obtaining report from the District Revenue Officer, the quarry lease was cancelled by the 3rd respondent without obtaining any prior permission from the 2nd respondent, hence the entire proceedings passed by the 3rd respondent is illegal and arbitrary.

7. The learned counsel for the respondents would submit that though the lease was granted in the year 2006 for quarrying the stone and the lease period was expired in the year 2011 itself. The procedure followed for granting lease has completely changed and at present, all the quarries are leased only by way of public auction. Hence, the present writ petition as having become infructuous.

8. A perusal of the record clearly shows that the 3rd respondent has cancelled the petitioner's lease for stone quarrying, since there is a residential area nearby, which is situated 120 meter away from the above said Ramaswamy Gounder's land. Since the petitioner has not produced any relevant records containing allegations against the authorities, this Court shall not initiate any action against the authorities. This Court has gone through the order passed by the 1st respondent dated 06.07.2010 and does not find any error in it. Therefore, this Court cannot interfere with a decision arrived by the competent authority and further that the procedure followed for grant of lease has now completely changed and at present, the Government is granting the lease based on tender-cum auction.

9. In view of the above, the writ petition stands dismissed. However, liberty granted to the petitioner to participate in the future tender process. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

ssb

To

1. The Secretary to Government Industries Department,
Fort St.George, Chennai-9.
2. The Commissioner and Director of Mines and Geology, Guindy,
Industrial Estate, Chennai-32.
3. The District Collector,
Erode District, Erode.

+lcc to Mr.C.Prakasam, Advocate sr.62917
+lcc to Government Pleader sr.62787

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