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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 17709 of 2010
and
M.P.s 1 & 2 of 2010

S.Kothandaraman

... Petitioner

Vs

1. The District Collector,
Kancheepuram District,
at Kancheepuram.

2. The Addl. Director of Geology
and Mines,
Collectorate,
Kancheepuram District.

... Respondents

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 of the 1st respondent herein in Rc.No.236/2010/Q3 dated 12.06.2010 and quash the same and consequently direct the 1st respondent herein to extend the lease period of stone quarrying in favour of the petitioner in the lands of an extent of 5.00.00 hectares comprised in Survey No.338, Part in Siruthamur Village, Uthiramerur Taluk, Kancheepuram District for a further period of 5 years from 08.08.2010 under Rule 8(8) of the Tamil Nadu Minor and Mineral Concession Rule, 1959.

For Petitioner : Mrs.AL.Ganthimathi
For Respondents : Mr.J.Ramesh,
Addl. Govt. Pleader

O R D E R

This Writ Petition has been filed challenging the impugned order of the 1st respondent dated 12.06.2010 and quash the same and consequently direct the 1st respondent to extend the lease period of stone quarrying in favour of the petitioner in the lands of an extent of 5.00.00 hectares comprised in Survey No.338, Part in Siruthamur Village, Uthiramerur Taluk, Kancheepuram District for a further period of five years from 08.08.2010.



2. The case of the petitioner is that he has participated in the public auction and submitted his application for tender cum public auction, which was held on 22.06.2005 in respect of quarrying in the lands comprised in various Survey Numbers including an extent of 5.00.0 hectares in Quarry No.1 and another extent of 5.00.0 hectares in Quarry No.2 comprised in Survey No.338, Part at Siruthamur Village, Uthiramerur Taluk, Kancheepuram District and the lease was fixed for the period of five years. Thereafter, the petitioner was declared as successful bidder and accordingly, the lease agreement was executed by the Sub-Registrar, Walajabad and as per the lease agreement, the period of lease was from 09.08.2005 to 08.08.2010. The petitioner has further averred that he has been carrying quarrying operation in accordance with the rules and regulations and the area, which was leased to the petitioner was a virgin quarry as per Rule 8(8) of the Tamil Nadu Minor and Mineral Concession Rules. The period of lease for quarrying stone in respect of virgin area, which has not been subjected to quarrying was so far fixed as 10 years. In order to avail the said benefit, the petitioner has filed the application for extension of lease for further period of five years before the 1st respondent. However, the 1st respondent has rejected the petitioner's application by an order dated 12.06.2010. Against which, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that in respect of virgin quarry and the extension of lease for further period of five years under Rule 8(8) of the Tamil Nadu Minor and Mineral Concession Rules already decided by this Court in the case of C.Muthukrishnan Vs. The District Collector, Tirunelveli District, Tirunelveli and another reported in 2011 (5) CTC 577, wherein it has been held by this Court as follows :-

"27. This being the substantive law, the effect of the amended Rule is prospective in nature. Therefore, the necessary consequence will be that in respect of leases granted before the amendment came into existence, the amended Rule 8(8) is not applicable in respect of the period of lease. However, in respect of lease granted based on the Notification issued by the District Collector after the amended Rule has come into existence, the amended Rule no doubt confers a right of 10 years period, but subject to the period of lease mentioned in the Lease deed. Even though the participant has got a right to claim the period of 10 years, such right was available to him at the time of the Notification issued by the District Collector under Rule 8(1) of the Rules and having failed to raise his objections with eyes wide open to the terms of the notification, which restricted the period of



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lease to five years even after the amendment, if a person participates in the tender process and being a highest bidder executes voluntarily a Lease Deed for a lesser period, he cannot, as a matter of right, claim extension of lease upto the period of 10 years. Such fixation of period, in our view, even though the amended Rule confers a right on the lessee in respect of virgin quarry, when once the District Collector fixes lesser period, which depends upon various circumstances and factors and the same is accepted by a party entering into a lease agreement, the terms of the Lease Agreement are binding."

4. In view of above decision, nothing survives for further adjudication in this Writ Petition. Accordingly, the present Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

rpp

To

1. The District Collector,
Kancheepuram District,
at Kancheepuram.

2. The Addl. Director of Geology
and Mines,
Collectorate,
Kancheepuram District.

+1 CC to Govt. Pleader sr 63848.

+1 CC to Mrs.AL.Ganthimathi, Advocate sr 63614.

W.P. 17709 of 2010

and

M.P.s 1 & 2 of 2010

NRJK(CO)

SP(29/08/2019)