



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2019

CORAM

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

W.P.Nos.3221 and 3222 of 2009
and
WMP.Nos 1 and 1 of 2009

N. Padmavathy

...Petitioner in both W.Ps.

-Vs-

1. The District Collector,
Thiruvannamali District,
Thiruvannamalai.

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

... Respondents in both W.Ps.

PRAYER in W.P. No.3221 of 2009:

Writ Petitions is filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus or any other appropriate writ or order or direction in the nature of writ directing the first respondent to execute the lease deed in favour of the petitioner with reference to the stone quarry in the land bearing Survey No.111 admeasuring 2.00.0 Hectares in Avaniapuram Village, Vandavasi Taluk, Thiruvannamalai District, within the time frame fixed by this Hon'ble Court.

PRAYER in W.P. No.3222 of 2009:

Writ Petitions is filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus or any other appropriate writ or order or direction in the nature of writ directing the first respondent to execute the lease deed in favour of the petitioner with reference to the stone quarry in the land bearing Survey No.40/1 admeasuring 0.29.5 Hectares in Avaniapuram Village, Vandavasi Taluk, Thiruvannamalai District, within the time frame fixed by this Hon'ble Court.

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 District Gazette dated 20.03.2008 calling for Tender-cum-Auction for several stone quarries including the land bearing survey Nos.111 and 40/1 admeasuring 2.00 hectares and 0.295 hectares respectively 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/- and Rs.55,000/- respectively 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, the petitioner remitted 10 per cent of the bid amount 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/- and Rs.5000/- towards security deposit, non-judicial stamp papers to the value of Rs.10,500/- and Rs.5,000/- and the remittance challan for Rs.1000/- and Rs.600/- respectively 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 27.05.2008 directed the petitioner 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 Tahsildar with a direction to the petitioner 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 petitioner for the production of another sketch for the area with colour marking with three copies as recommended and approved by the Tahsildar, Vandavasi. The said letter bore a note with a warning to the petitioner 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 Tahsildar as well as petitioner where it is stated that the Revenue Divisional Officer, Cheyyar in his letter dated 20.06.2008 had stated that the petitioner quarried stones from the land bearing S.No.111 in Avaniapuram Village even before granting lease and, she stocked 96 loads of stones and 22 loads of jelly in Survey No.48/1 in Avaniapuram Village and the Revenue Divisional Officer, Cheyyar is 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. Subsequently to this, the petitioner made representation dated 19.01.2009 and 11.02.2009 to the District Collector, but so far no relief was granted.

7. The petitioner filed the above Writ Petitions challenging the order of the District Collector dated 05.01.2009, with a prayer to direct the District Collector to execute the lease deed in favour of the petitioner.

8. Mr. V. Sanjeevi, the learned counsel for the petitioner would submit that the respondent not executed quarry lease on the ground that there was leasehold quarry even before execution of lease deed and found that there was quarry stone nearby the pond. On the sole ground lease deed was executed. However that refusal is without giving any opportunity to the petitioner and the respondent did not follow the minimum principles of natural justice. The refusal order was challenged in another writ petition and that was remanded back to the Authority. Hence the same order may be passed in the present Writ Petition.

9. The learned counsel for the respondent would submit that by an earlier order this Court had remitted back the matter to the authority for finding out whether there is illegal quarry or not. If the authority found there is no illegal quarry then the request of the petitioner request for the execution of lease will be considered in accordance with law.

10. Hence, I am inclined to issue a direction to the respondent to consider the petitioner's request in accordance with law and pass appropriate orders. The Writ Petition is disposed of 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 Deputy Director (Geology and Mining),
Office of the District Collector,
Thiruvannamalai- 606 604.

+lcc to Mr.V.Sanjeevi, Advocate, SR.No.53704/19

W.P.Nos.3221 and 3222 of 2009
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Kak(13/09/2019)