

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 17.06.2019

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.13555 of 2018
and WMP.Nos.15971 & 15972 of 2018

D.Muthu Rama Chandramurthy

... Petitioner

Vs

The District Collector,
Tiruppur District,
Tiruppur.

... 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 of the impugned order in (rejection petition) No.2018/9005/32/380798/0521 dated 25.05.2018 and quash the same and consequently directing the respondent to extend the lease permission to quarry in S.F.No.229/2, Myvadi Village, Madathukulam Taluk, Udumalpet, Tiruppur District.

For Petitioner : Mrs.Hema Sampath
Senior Counsel for Mr.S.Gunalan

For Respondent : Mr.D.Suriyanarayanan,
Additional Government Pleader

O R D E R

The prayer in the writ petition is for issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned order in (rejection petition) No.2018/9005/32/380798/0521 dated 25.05.2018 and quash the same and consequently direct the respondent to extend the lease permission to quarry in S.F.No.229/2, Myvadi Village, Madathukulam Taluk, Udumalpet, Tiruppur District.

2. The writ petitioner is the lease-holder of gravel quarry in his patta land in S.F.No.299/2 over an extent of 4.90.0 Hect of Myvadi Village, Madathukulam Taluk, Udumalpet, Tiruppur District.

3. As there was some title dispute between the petitioner and one P.Balasubramaniam, the said Balasubramaniam filed a writ petition against the grant of license in favour of the writ petitioner for a period of three years from 23.05.2015 to 22.05.2018.

4. This Court granted an order of interim injunction on 03.07.2015, thereby the right of gravel quarry in his patta land came to stand-still till the said writ petition was dismissed as withdrawn on 01.03.2018 consequently, the interim order was vacated. In the said course for nearly 2-1/2 years the petitioner has lost his right and in fact when the writ petition was dismissed as withdrawn, this Court has specifically observed in its order dated 01.03.2018 as under:-

"Learned Senior Counsel for the fourth respondent submitted that because of the stay granted in this writ petition, the petitioner was not in a position to quarry during the pendency of such interim order and thus in effect the fourth respondent has lost nearly 2 1/2 years of the lease period granted by the District Collector. Since the petitioner has chosen to withdraw this writ petition with liberty as stated supra, the stay granted herein shall also be vacated, it is for the District Collector to consider the extension of lease for the period during which time the stay was in operation".

5. However when the request was made to the respondent herein to extend the license for quarry for the period lost due to Court stay, the same was rejected on the ground that there is no provision under the Mines and Minerals Act for extension of license. Aggrieved by the said denial of request, the present writ petition is filed.

6. It is stated in the counter affidavit filed by the respondent that the three years license period expired on 22.05.2018. The petitioner has enjoyed the remaining period of license after this Court vacated the interim order. During the license period the petitioner has transported 725 lorry loads after due payment. The request for extension of lease was submitted by the petitioner on 21.05.2018, which was considered and rejected in accordance with law as per Rule 8 (8) (ii) of Tamil Nadu Minor Mineral Concession Rules, 1959 which reads as follows:-

"The lease shall expire on the date specified in the lease deed and in no case extension of the period of lease shall be made".

7. No doubt, there is a statutory bar for extension of lease, whereas this is a peculiar case where the three years right granted to the petitioner herein, was not fully enjoyed by the petitioner due to the intervention of the Court order passed in M.P.Nos.1 & 2 of 2015 in W.P.No.19316 of 2015 and the said writ petition was later dismissed as withdrawn without advertng to the merits of the writ petition.

8. In the said circumstances, the party cannot suffer because of the order passed by this Court and hence the petitioner herein is entitled to enjoy the full lease period of three years and the period where there was a stay ordered by this Court, has to be taken into account and the lease has to be extended for that period. Therefore, in a similar facts of case, the Hon'ble Supreme Court observed that relief cannot be denied solely because of loss of time in prosecuting proceedings in judicial or quasi judicial forum.

9. Accordingly, the writ petition is allowed and the impugned order dated 25.05.2018 is quashed and the respondent herein is directed to re-consider the representation dated 21.05.2018 given by the petitioner for extension of lease in the land bearing S.F.No.229/2, Myvadi Village for the period stay order was in force and pass orders within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

dpq

To

The District Collector,
Tiruppur District,
Tiruppur.

+1 cc to M/s.S.Gunalan, Advocate, S.R.No.49173

+1 cc to the Government Pleader, S.R.No.50225

W.P.No.13555 of 2018
and WMP.Nos.15971 & 15972 of 2018

KAN(CO)
SSM(26/06/2019)