



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2019

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THE HONOURABLE **MR.JUSTICE M.GOVINDARAJ**

W.P. (MD) No.5248 of 2019

and

W.M.P. (MD) Nos.4196 & 4197 of 2019

J.Jeyalakshmi

... Petitioner

Vs.

The District Collector,
Tirunelveli District,
Tirunelveli.

... Respondent

PRAYER : Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in Ref.Na.Ka.No.M1/22550/2012, dated 21.12.2018, quash the same, directing the respondent to consider and grant lease for quarrying rough stones and jelly from the land bearing S.F.No.106 admeasuring 1.62.5 Hectares in Chathiramkondan Village (formerly Sankarankoil Taluk), now Thiruvengadam Taluk, Tirunelveli District for the balance period of 5 years for completing 10 years lease period as virgin quarry within the time frame fixed by this Court.

For Petitioner : Mr.V.Sanjeevi
for M/S.D.Srinivasaragavan

For Respondent : Mr.J.Padmavathi Devi,
Special Government Pleader.

ORDER

This Writ Petition has been filed to quash the proceedings in Ref.Na.Ka.No.M1/22550/2012, dated 21.12.2018 on the file of the respondent herein and to direct the respondent to consider and grant lease for quarrying rough stones and jelly from the land bearing S.F.No.106 admeasuring 1.62.5 Hectares in Chathiramkondan Village (formerly Sankarankoil Taluk), now Thiruvengadam Taluk, Tirunelveli District for the balance period of 5 years for completing 10 years lease period as virgin quarry within, a time frame.

2.The petitioner was granted quarry permit in an auction held

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by the respondent for a period of five years in respect of land bearing S.F. No.106 admeasuring 1.62.5 Hectares in Chathiramkondan Village, Thiruvengadam Taluk, Tirunelveli District. The petitioner was the successful bidder in the auction and conducted quarry operation for five years. Again, on the expiry of the lease period, she applied for renewal of lease. It was rejected by proceedings in Ref.Na.Ka.No.M1/22550/2012, dated 21.12.2018 stating that the lease amount cannot be fixed on her own. The said rejection order is under challenge, in the present writ petition.

3.The learned counsel appearing for the petitioner would draw attention of the decision of the Hon'ble Supreme Court reported in **1999 1 SCC 475 (V.Karnal Durai Vs. District Collector, Tuticorin) and another** wherein the Hon'ble Supreme Court has held as follows:

"21.In the present case. the appellant's tender was rejected on 22.3.1995 and the provision for periodic increases was there till 19.12.1996 only. In the circumstances of the case, we have put It to the appellant's senior counsel that in the event the appeal is to be allowed, we will apply the old rule upto at least 19.12.1996 so far as the rate is concerned. Learned senior counsel agreed for such enhancement. The enhancement would be roughly for 2 years. In the peculiar circumstances of the case, we direct that the lease amount will stand increased, to start, by 40% of the offer i.e. instead of Rs. 1.60 lakhs, it. will be Rs.2.24 lakhs per annum, the period of lease will run for a period of 3 years from the date of execution of the lease as stated in the amended rule, at the rate of Rs.2.24 lakhs per annum. The appellant shall have to pay the seigniorage also as per the amended rules in addition to the lease amount time for payment of the enhancement in the lease amount or any balance of the lease amount or seigniorage, will be one month from today."

Following the judgment, similarly placed persons have approached this Court, vide W.P.(MD)No.12826 of 2014, dated 15.10.2015, wherein this Court held as follows:

"13. It is not in dispute that there is no provision in Tamil Nadu Minor Mineral Concession Rules, 1959, to fix the enhanced lease amount, however, it is the normal practice to levy 20% raise each year in all the Districts in Tamil Nadu only based on the practice in various Districts increase at 20% rise namely, adding 20% per annum on the original amount every year is fixed towards appreciation of the land value for every financial year. In view thereof, the respondent is directed to fix enhanced lease amount adding 20% per annum on the bid amount fixed in the year 1999 excluding the period from 12.07.1999 to 11.07.2004 and also excluding the delay period taken for filing appeals."



4. Pursuant to the order passed by this Court, the respondent, in MC/67787/2004, dated 19.01.2016, has extended the lease period for further five years and permitted them to quarry.

5. It is also contended that as per the Rule 8(8) of the Tamil Nadu Minor Mineral Concession Rules, 1959 quarrying for virgin land shall be granted for 10 years. Rule 8(8) of the Tamil Nadu Minor Mineral Concession Rules, 1959 is reads as follows:

"The period of lease for quarrying stone in respect of the virgin areas, which have not been subjected to quarrying so far, shall be ten years. The period of lease for quarrying stone in respect of other areas shall be five years. The period of lease for quarrying sand and other minor minerals, other than the minerals covered under rules 8-A and 8-C of the said Rules, shall not exceed three years and shall not be less than one year and shall be subject to the following conditions, namely:-

(i) the date of commencement of the period of lease granted under this rule shall be the date on which the lease deed is executed.

(ii) 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."

As per G.O.Ms.No.391, Industries, dated 17.11.2000, the period for quarrying lies 5 years only. But as per amended provision it shall be for 10 years at the first instance. This view is reinforced by the judgments of Hon'ble Supreme Court and this High Court. Whereas the impugned order came to be passed without considering the above aspects.

6. In the light of the above judgments, the impugned order, dated 21.12.2018 of the respondent is set aside. In the light of the order passed in W.P.(MD)No.12826 of 2014, dated 15.10.2015, the lease amount is fixed by enhancing previous lease amount, by 25% for each year. The respondent shall issue appropriate orders on the basis of fixation, in the light of the above judgment.

7. In the result, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)



To

The District Collector,
Tirunelveli District,
Tirunelveli.

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+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate (SR-98601[F] dated
15/11/2019)

+1 CC to M/s.GP (SR-99040[F] dated 18/11/2019)

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