



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.19825 of 2019

and

W.M.P. (MD) .Nos.16329 and 16330 of 2019

S.Parameswari

... Petitioner

vs.

1.The District Collector,
Madurai District, Madurai.

2.The Deputy Director,
Department of Mines and Minerals,
Madurai, Madurai District.

3.The Assistant Director,
Department of Mines and Minerals,
Madurai, Madurai District.

4.The Revenue Divisional Officer,
Madurai District,
Madurai.

5.The Tahsildar,
Madurai North Taluk,
Madurai District.

6.N.Nagamalai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order made in Na.Ka.no.1306/2018-Kanimam dated 11.03.2019 on the file of the 1st respondent and quash the same and directing the 1st respondent to cancel the stone quarry lease granted in favour of the 6th respondent pertaining to the stone quarry situated in S.No.24/1(part) of Kachirayanpatti village, Melur Taluk, Madurai District to an extent of 2.00 hectares within stipulated time.

For Petitioner : Mr.V.Kannan

For Respondent : Mr.P.Kannithevan

Additional Govt. Pleader for RR-1 to 5

Mr.T.Lajapathi Roy for

Mr.C.Prithivi Raj for R-6

**ORDER**

Mr.P.Kannithevan, learned Additional Government Pleader takes notice for the respondents 1 to 5 and Mr.T.Lajapathi Roy, learned counsel on behalf of Mr.C.Prithivi Raj, learned counsel, takes notice for the eighth respondent.

2.By consent of both sides, the writ petition itself is taken up for final disposal at the admission stage itself.

3.The order under challenge is the consequential proceedings of transfer of lease of stone quarry in favour of the father-in-law of the petitioner.

4.The short facts of the case are as follows:

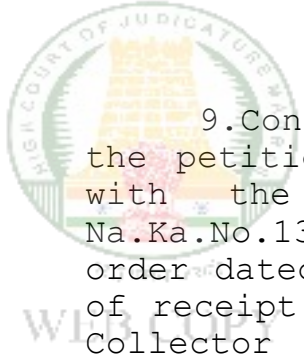
The petitioner is the widow of one late N.Selvam. He obtained lease from the Government for running a stone quarry in Sy.No.24/1 (part), Kachirayanpatti Village, Melur Taluk, Madurai District. The lease is valid from 21.01.2016 to 21.02.2022. During the subsistence of lease period, the said Selvam died. Thereafter, on application by the father-in-law/6th respondent herein, the first respondent/District Collector transferred the lease in favour of the sixth respondent in proceedings in Na.Ka.No.1306/2018-Mines, dated 05.03.2019. The said order of the District Collector was implemented in proceedings dated 11.03.2019. The said order is challenged before this Court.

5.According to the petitioner, she is the legally wedded wife and she is also a first class legal heir of deceased Selvam. Originally, a Legal Heir Certificate was issued in favour of her father-in-law without including her name. Thereafter, at her instance, it was cancelled. But to her surprise, the cancellation order was revoked against which, she has filed a revision before the District Collector.

6.The learned counsel for the petitioner would contend that lease should have been transferred in her favour and the impugned order dated 11.03.2019 should be set aside.

7.The learned counsel appearing for the 6th respondent would contend that as per Sub-Rule 2 of Rule 36(c) of Tamil Nadu Minor Minerals Concession Rules, 1959, the petitioner has an appellate remedy against the order of the District Collector and without exhausting the said remedy, the writ petition is not maintainable.

8.Heard both sides. This Court is of the view that as per Sub-Rule 2 of Rule 36(c) of Tamil Nadu Minor Minerals Concession Rules, 1959, the petitioner has an appeal remedy. Though the limitation period is 30 days, the petitioner, who is a poor widow has not availed that remedy.



9. Considering the above facts and circumstances of the case, the petitioner is directed to file an appeal, if she chooses to, with the District Collector, against his proceedings in Na.Ka.No.1306/2018-Mines, dated 05.03.2019 and the consequential order dated 11.03.2019, within a period of two weeks from the date of receipt of a copy of this order. The first respondent/District Collector is directed to entertain the above appeal, without insisting for period of limitation and dispose of the same on merits and in accordance with law, by affording opportunity of hearing to all the necessary parties, especially, the sixth respondent herein and dispose of the appeal, within a period of two months from the date of filing of the same.

10. With the above observation, the writ petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(P&A)

/TRUE COPY/

Sub Assistant Registrar

To:

1. The District Collector,
Madurai District, Madurai.
2. The Deputy Director,
Department of Mines and Minerals,
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3. The Assistant Director,
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4. The Revenue Divisional Officer,
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Madurai.
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Madurai District.

+1 CC to M/s.V.KANNAN, Advocate (SR-87075[F] dated 17/09/2019)

W.P. (MD) No.19825 of 2019
17.09.2019

vs

JM/19.09.2019/3P/7C