

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.01.2020

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. No.1821 of 2018

S.Kumarasamy

...Petitioner

Vs

The Commissioner,
Department of Geology and Mining,
Guindy, Chennai-600 032

.... Respondent

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to consider and pass orders on the petitioner's Scheme of Mining submitted to the respondent, through the Deputy Director, Geology and Mining, Thirunelveli, on 23.06.2017, the receipt of which has been acknowledged by the respondent on 31-07-2017, in respect of the subject granite bearing patta lands of the petitioner, measuring 0.75.0 hectares comprised in S.F.Nos.317/6 & 317/8, situated at Balapathiraramapuram Village, V.K.Puthur Taluk, Thirunelvi District.

For Petitioner : Mr.K.Ramakrishna Reddy

For Respondent : Mr.M.Inbanathan
Addl. Govt. Pleader

O R D E R

The Writ Petition has been filed in the nature of Mandamus seeking direction to the respondent to consider and pass orders on the petitioner's Scheme of Mining submitted to the respondent, through the Deputy Director, Geology and Mining, Thirunelveli, on 23.06.2017, the receipt of which has been acknowledged by the respondent on 31-07-2017, in respect of the subject granite bearing patta lands of the petitioner, measuring 0.75.0 hectares comprised in S.F.Nos.317/6 & 317/8, situated at Balapathiraramapuram Village, V.K.Puthur Taluk, Thirunelvi District.

2.In the affidavit filed in support of the Writ Petition, it was stated that originally the Petitioner had been granted benefit of the lease agreement dated 23.12.2002, which was duly

registered and the same was in force for a period of 10 years till 22.12.2012.

3. The Government of Tamilnadu, vide GO.Ms.No.79, Industries (MMC-1) Dept, dated 06.4.2015, introduced Rules 41 and 42 to the Tamilnadu Minor Mineral Concession Rules, 1959 and as per Rule 41, the approved mining plan is a pre-requisite for granting granite quarrying lease and as per Rule 42, Environment Clearance is also a pre-requisite for carrying on quarrying operations. Based on the same, the existing leases though were granted licence, under Rule 42 Mines and Minerals Concession Rule 1959 were directed to submit the Environment Clearance Certificate within 180 days, and thereafter, the said period was extended from time to time.

4.It is stated that thereafter, by Rule 18(2) of the Granite Conservation and Development Rules, 1999, it was stated scheme of mining should be submitted once in five years during the lease period. It is stated that the petitioner had submitted the said application seeking approval of scheme of mining to the respondent on 23.6.2017 along with required copies of scheme of mining.

5.It is the grievance of the learned counsel for the petitioner that though the application along with scheme of mining was recieved by the respondents on 31.7.2017, till date, no action has been taken to grant approval for the same and the same is kept pending till date.

6.Status report had been filed by the respondents herein, wherein, it is stated that the petitioner had submitted the said Scheme of Mining very belatedly, petitioner failed to submit the renewal application and scheme of mining within the time period as stipulated under Rule 19(a) of Tamilnadu Minor Mineral Concession Rules, 1959. It is also stated that the Director of Geology and Mining, Chennai has instructed to take necessary action to collect the cost of granite material, if any granite quarries were operated under the violating period, i.e., the quarries operated without Environment Clearance or excess quantity exploited over and above the permitted quantity of the mining plan/scheme of mining/Environment Clearance. It is stated that the petitioner has quarried granite mineral and transported the same in violation of the above said rules, for the period from 15.01.2016 to 10.01.2017.

7.In view of the above stated facts, the petitioner seeks writ of Mandamus directing the respondents to consider the Scheme of Mining, but at the same time, he is under obligation to pay any demand raised by the respondent. He cannot claim right without performing duties. Though his prayer, which according to the learned counsel for the petitioner, does not go

to the root of the issue, still, through this method, the petitioner cannot take further advantage of the fact when he had actually violated the terms and conditions and is also liable to pay due amounts to the respondent for the same.

8.The respondent, may determine the amounts payable by the petitioner for the violating period and the petitioner is directed to pay such amount. Simultaneously, on payment of such amount, the respondent shall consider the application along with scheme of Mining given by the petitioner.

9.With the above observation, the Writ Petition stands disposed of. No cost.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

The Commissioner,
Department of Geology and Mining,
Guindy, Chennai-600 032.

+1cc to the Government Pleader Sr.5743

+1cc to Mr.K.RamaKrishna Reddy, Advocate Sr.5099

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srg 21/02/2020

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