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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.18583 OF 2019

K.Muthu Kailash
S/o.M.S.Kandaswamy
Rep. By his Power of Attorney holder,
S.Krishnamurthy

... Petitioner

Vs.

1. The District Collector,
Salem District,
Salem.
2. The Assistant Director of Geology and Mining,
Salem District,
Salem.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to permit the petitioner to remove the SOAP stone mined as on 31.03.2016 weighing 1705.300 MT during the existence of lease prior to 27.01.2018 as per the representation of the petitioner dated 20.01.2016 from his patta lands in S.No.41/1 Part, 41/4 Part and 127/1 measuring to an extent of 2.30 Hectares in Cinnasotagi Village, Mettur Taluk, Salem District on payment of necessary charges.

For Petitioner : Mr.K.R.Krishnan

For Respondents : M/s.Mr.U.Baranidharan
Additional Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents to permit the petitioner to remove the SOAP stone mined as on 31.03.2016



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weighing 1705.300 MT during the existence of lease prior to 27.01.2018 as per the representation of the petitioner dated 20.01.2016 from his patta lands in S.No.41/1 Part, 41/4 Part and 127/1 measuring to an extent of 2.30 Hectares in necessary charges.

2. The learned counsel appearing for the petitioner submits that the petitioner is the owner of the Sop stone quarry situated in his patta lands in S.No.41/1, 41/4 and 127/1, chinnaotagi village, Mettur Taluk, Salem District. Originally the lease was granted for a period of 20 years by vide G.O.Ms.No.1347 Industries Department dated 12.12.1977 subsequently, necessary lease deed has been executed in favour of the petitioner on 28.06.1978. The application of renewal on 22.1.1997 under Rule 24-A(6) of MMRD Act and MCR, 1910 and as per the rules, the lease is in force for a further period and is in force till 27.1.2018 and the 2nd renewal for a period of 20 years is pending. While the lease deed was in force prior to 27.1.2018, the petitioner has been carrying on quarrying regularly by payment of royalty of Rs.54/- per M.T. And the same has been regularly checked by the Mining Authorities.

3. The National Green Tribunal (NGT) in its order dated 04.05.2016 has observed that all leases for major or minor minerals to continue the mining/quarrying activities till 01.06.2016 and after which, should obtain Environmental Clearance Certificate. Based on the judgement of National Green Tribunal, Environment Clearance became mandatory. Thereafter, the petitioner applied for obtaining the Environment Clearance Certificate before the competent court and as on date the application is not disposed.

4. He further submits that even though the petitioner has given a written representation along with last dispatch slip issued by the 2nd respondent on 20.1.2016 to issue dispatch slips for the removal of materials of 1705.300 MT of Soap stones. Both the respondents as against the provisions of the M.M.R.D. Act 1959 and M.C.R. Rules 1960, are keeping silent without issuing dispatch slip to remove the material that was already quarried. Hence, this Writ Petition is filed.

5. Heard the submissions made by the learned Additional Government Pleader.

6. Considering the fact that there is no permission for issuing the permit dispatch slips to remove the already mined materials in the absence of Environmental Clearance Certificate, the prayer sought for cannot be acceded to. Accordingly, this Writ Petition is dismissed. No Costs. However, liberty is



granted to the petitioner for renewing his request upon obtaining the Environmental Clearance Certificate from the competent authority which is mandatory for quarrying.

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Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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Copy To:

1. The District Collector,
Salem District,
Salem.
2. The Assistant Director of Geology and Mining,
Salem District,
Salem.

+1cc to M/s.K.R.Krishnan, Advocate, S.R.No.60607

+1cc to the Government Pleader, S.R.No.60667

W.P.No.18583 of 2019

CP(CO)
RLP(07/01/2022)