



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.5816 of 2021

and

W.M.P. (MD)No.4572 of 2021

WEB COPY

M/s.K.A.M.Mines and Minerals
Rep. by its Proprietor A.Muthukumar
S/o.Anbanandan
Chettiayakadu, Thagettur Post,
Vedaraniyam Taluk,
Nagapattinam District 614714.

... Petitioner

-Vs-

1.The Director of Geology and Mining,
Guindy,
Chennai-600 032.

2.The District Collector,
Collectorate,
Thanjavur District.

3.The Assistant Director,
Geology and Mining,
Thanajvur.

4.The District Collector,
Collectorate,
Nagapattinam District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to approve the mining plan and communicate the precise area as per Rule 41(1)(2) of Tamil Nadu Minor Mineral Concession Rules, 1959, in respect of Silica Sand Quarry in S.No.187/1, 188/6, 189/2, 197/2, 198/202, 199/2, 200/1A, 201/1 & 2 measuring to an extent of 13.36.5 hectares in his own patta land situated in Thambikottai Vadakku, Pattukottai Taluk, Thanjavur District.

For Petitioner : Mr.K.R.Krishnan

For Respondents : Mr.S.Angappan
Government Advocate



ORDER

Heard the learned counsel on either side. With the consent of learned counsel on either side, the writ petition is taken up 'for final disposal' at the admission stage itself.

WEB COPY

2.The petitioner had applied for mining lease in respect of the petition mentioned patta lands. The petitioner's application was not being processed, since according to the respondents, the petitioner owes to pay mining dues in respect of another quarry, for which, the petitioner is still enjoy the mining lease.

3.The learned Government Advocate drew my attention to the demand notice bearing R.C.No.136/Mines/2019, dated 02.08.2019 issued by the District Collector, Nagapattinam, calling upon the petitioner to pay a sum of Rs.1,43,00,000/- being 100% cost of mineral that was removed without environmental clearance during the period from 15.01.2016 to 10.01.2017. He also drew my attention to Section 22(1)(d) of Mineral Concession Rules, 1960, which states that an application for grant of mining lease shall be accompanied by a valid clearance certificate indicating payment for mining dues. However, if any interim order has been granted by any Court of law, then, non payment of the mining dues will not be treated as disqualification for the purpose of granting or renewing the said mining lease.

4.He further submitted that the impugned communication dated 05.01.2021, calling upon the petitioner to get mining dues certificate, cannot be faulted. In fact, when the writ petition was listed for admission, I made it clear to the petitioner's counsel that unless the petitioner is able to get an interim order of stay of the demand set out in the letter dated 02.08.2019, I will not be in a position to consider the petitioner's request. The matter was therefore adjourned. When the petitioner had earlier filed W.P.(MD) No.441 of 2021, the same suffered dismissal on 24.02.2021. However, I made it clear that if the petitioner obtains interim stay in the pending writ appeals, it would be open to the petitioner to move this Court once again.

5.The petitioner's counsel has been able to obtain interim order in W.P.Nos.9481 to 9486 of 2020 dated 08.03.2021. Since the petitioner has obtained an interim order in respect of the demand raised, vide letter dated 02.08.2019, the petitioner's case will come under second proviso to Section 22(3)(1) of Mineral Concession Rules, 1960. Therefore, there cannot be any impediment for processing the petitioner's application. In other words, non payment of the mining dues, as set out above, will not be a bar for consideration of the petitioner's application. The first respondent is directed to process the petitioner's application on merits and in accordance with law.



6.The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Director of Geology and Mining,
Guindy,
Chennai-600 032.

2.The District Collector,
Collectorate,
Thanjavur District.

3.The Assistant Director,
Geology and Mining,
Thanajvur.

4.The District Collector,
Collectorate,
Nagapattinam District.

+1 CC to M/s.SPL GP (SR-12734[F] dated 22/03/2021)

+1 CC to M/s.K.R.KRISHNAN, Advocate (SR-12855[F] dated 22/03/2021)

W.P. (MD)No.5816 of 2021

and

W.M.P. (MD)No.4572 of 2021

19.03.2021

AC (co)

TR (23.03.2021) 3P 7C