



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.6371 of 2021

G.Anuradha

... Petitioner

-Vs-

1.The Secretary to the Government
Industries Department,
Government of Tamil Nadu,
Fort St.George,
Chennai-600 009.

2.The District Collector,
Tiruchirapalli District,
Tiruchirapalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to pay 12% simple interest on the outstanding on lease amount of Rs.72,07,636/- from 24.03.2006 to 17.01.2018 till the date of payment.

For Petitioner : Mr.K.R.Krishnan

For Respondents : Mrs.M.Rajeswari
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.

2.The petitioner's husband Thiru.Ganesan was granted permission to quarry sand vide proceedings bearing RC.B.392/96, dated 25.04.2003 on the file of the District Collector, Tiruchirappalli. The petitioner's husband had paid a sum of Rs.90,25,000/-. The petitioner also paid the security deposit of Rs.9,25,000/-. Though the petitioner's husband was declared as successful bidder way back on 12.08.1996, the lease deed came to be executed only on 25.04.2003. The lease was for a period of three years. The petitioner's husband should have enjoyed the lease from 06.05.2003 to 05.05.2006. Unfortunately, for the lessee, Rule 38-A was inserted into Tamil Nadu Mineral Concession Rules, 1959, vide G.O.Ms.No.95, Industries Department, dated 01.10.2003. As a result, sand quarrying operation throughout the State of Tamil Nadu came under exclusive state monopoly. In other words, private sand quarry was banned. This Rule was challenged in a batch of writ petitions. But the Apex Court sustained the same. The review petition was also



dismissed. As a result of Rule 38(A), the petitioner's husband's lease came to be terminated within a period of six months from the date of receipt of execution of the lease deed. The Supreme Court however held that the lease holders can carry on quarrying operations for a period of six months from 21.02.2007 to 20.08.2007. The Government was directed to refund the lease amount as well as the security deposit in respect of the un-quarried period. There is no dispute that the petitioner's husband was entitled to refund of Rs.71,69,861/-. Though the petitioner's husband kept on representing, no response was forthcoming.

3.The petitioner's husband passed away on 04.11.2011. The petitioner stepped into his shoes and filed W.P.(MD)No.15145 of 2012 before this Court. Vide order dated 18.06.2014, a learned Judge of this Court directed the respondents to consider the representation made by the petitioner in the light of G.O.2(D).No.25, Industries Department, dated 18.08.2009 and the order passed by this Court in W.P.(MD)No.24260 of 2009. Pursuant to the aforesaid direction, refund was made on 17.01.2018. The petitioner's contention is that the refund ought to have been made together with interest. In as much as no interest was paid, the present writ petition came to be filed.

4.The petitioner has enclosed materials in the typed set of papers to show that similarly placed persons were refunded the proportionate lease amount on 18.08.2009 itself. G.O.2(D).No.25, Industries Department was issued on the said date. But in the case of the petitioner, refund came only on 17.01.2018. Thus, there has been a gap of almost nine years in making refund to the petitioner herein. Obviously, for this delay, the Government ought to pay interest. Of-course, the learned Government Advocate would contend that direction to pay interest is not contemplated.

5.I am not in a position to accept this contention advanced by the learned Government Advocate. There is a delay on the part of the Government in making the payment. Interest should obviously be paid. This is axiomatic. When liability to refund is not disputed, if there is delay in discharging the liability, interest should be paid for the period covering the delay.

6.Therefore, I direct the respondent to pay interest to the petitioner to be calculated at the rate of 6% on Rs.72,07,636/- for the period from 18.08.2009 to 17.01.2018. This interest shall be paid to be petitioner within a period of eight weeks from the date of receipt of a copy of this order. This Writ Petition is allowed accordingly. No costs.

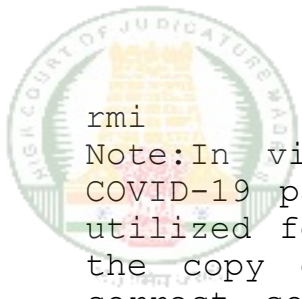
Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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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 Secretary to the Government
Industries Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.

2. The District Collector,
Tiruchirapalli District,
Tiruchirapalli.

+1 CC to M/s.SPL GP (SR-14312[F] dated 30/03/2021)

W.P. (MD) No. 6371 of 2021
29.03.2021

RK (28.04.2021) 3P 4C