



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.01.2021
CORAM
THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD)No.16195 of 2019

WEB COPY

K.Balasubramanian

: Petitioner

Vs.

1.The Secretary,
Industries Department,
Fort St.George,
Chennai - 600 009.

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

3.The District Collector,
Tanjore District, Tanjore.

: Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the respondents to refund the lease amount and security deposit amount paid by the petitioner to the tune of Rs.5,02,200/- and Rs.50,220/- respectively and all other incidental amounts paid by the petitioner towards the grant of lease for the purpose of mining river sand pursuant to the order passed by the 3rd respondent in his proceedings RC.No.286/98/G & M dated 10.12.1998 to the petitioner with interest at the rate of 18% per annum in the light of the order passed by this Court in W.P. (MD)No.13098 of 2011, dated 04.07.2013 within a time frame fixed by this Court.

For Petitioner
For Respondents

:Mr.B.Saravanan
:Mr.P.Murugan
Additional Government Pleader

ORDER

Heard the learned Counsel on either side.

2.The petitioner was granted lease to quarry mines and minerals vide lease deed, dated 04.05.2001, which was executed by the District Collector, Tanjore, in favour of the writ petitioner. In terms of the said lease deed, the petitioner was directed to pay lease amount and security deposit of Rs.5,02,200/- Rs.50,220/- respectively. The petitioner duly made the said remittances. However, due to introduction of Rule 39(A) in Tamil Nadu Minor Mineral Rules 1958, the right to quarry mines and minerals became a



State monopoly and the contract executed to the petitioner by the Government got frustrated. The writ petitioner along with others moved the Honourable Supreme Court and the Honourable Supreme Court disposed of the appeal as follows:

"27. We, accordingly, allow these appeals in part. In place of the conditions stipulated by the Division Bench while upholding the validity of Rule 38A, we hold and direct as follows :

(i) That part of Rule 38A which vests the exclusive right to quarry sand, in the State Government, is upheld.

(ii) That part of Rule 38A which purports to terminate quarrying leases/permissions forthwith (from 2.10.2003) is read down in terms of Para 26 above.

(iii) The provision in Rule 38A for refund of proportionate lease amount for the unexpired period of lease and unadjusted seigniorage fee, shall remain undisturbed.

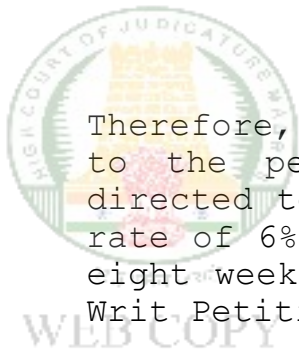
(iv) It is made clear that except to the limited relief as a consequence of reading down as per para 26 above, the respondents will not be entitled to any other reliefs which have been granted by the High Court.

(v) Parties to bear their respective costs."

3.The petitioner, thereafter, had been knocking the doors of the respondents for refund of the amount already paid by him. Since the said request was not considered, the petitioner filed W.P.(MD) No.13098 of 2011. The said Writ Petition was disposed of on 04.07.2013 by directing the Government to pass orders on the petitioner's representation, dated 09.10.2010. Even then, nothing had turned up. The petitioner did not file any contempt petition. However, he has chosen to file the present Writ Petition seeking positive direction for refund.

4.This Court called upon the respondents to make a statement in this regard. The payment made by the petitioner is not in dispute. However, the District Collector, Tanjore, has been seeking time for gathering particulars regarding the manner, in which the remittances made by the petitioner were appropriated. In fact, this Court adjourned the case on more than one occasion to enable the respondents to gather relevant particulars. I am not inclined to give further time to the respondents herein.

5.Neither the petitioner nor this Court is concerned about the manner in which the amount remitted by the petitioner was appropriated. The question is only whether the petitioner has made any payment and whether the petitioner enjoyed the fruits of the lease. It is not in dispute that the payment was made by the petitioner and that he did not enjoy the fruits of the lease.



Therefore, the respondents are legally obliged to refund the amount to the petitioner herein. Therefore, the first respondent is directed to refund the amount of Rs.5,52,440/- with interest at the rate of 6% per annum from the date of remittance within a period of eight weeks from the date of receipt of a copy of this order. The Writ Petition is allowed accordingly. No costs.

Sd/-

Assistant Registrar (Crl Side)

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The Secretary,
Industries Department,
Fort St.George,
Chennai - 600 009.

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

3.The District Collector,
Tanjore District, Tanjore.

+1 CC to M/s.B.SARAVANAN, Advocate (SR-399[F] dated 07/01/2021)

+1 CC to M/s.GP (SR-230[F] dated 06/01/2021)

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05.01.2021

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