



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.16966 of 2021

and

W.M.P (MD) .No.13946 of 2021

WEB COPY

D.Sivaji Ganesan

.. Petitioner

Vs.

1.The Secretary to Government,
Industries Department,
Fort George,
Chennai-9.

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

3.The District Collector,
Karur District,
Karur.

4.The Deputy Director of Geology and Mining,
Karur District,
Karur.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to issue dispatch slips for transporting minerals quarried legally on payment of necessary seigniorage fee upto the expiry of lease period i.e., 06.02.2023, pursuant to lease deed, dated 07.02.2018, in respect of petitioner's patta land situated in S.F.No.27/2, 28, Anjagoundenpatti, Aravakkuruchi Taluk, Karur District.

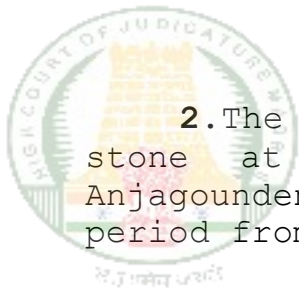
For Petitioner : Mr.A.Rahul

For Respondents : Mr.D.Ghandiraj

Government Advocate.

ORDER

Prayer sought for herein is for a Writ of Mandamus, directing the respondents to issue dispatch slips for transporting minerals quarried legally on payment of necessary seigniorage fee upto the expiry of lease period, i.e., 06.02.2023, pursuant to lease deed, dated 07.02.2018, in respect of petitioner's patta land situated in S.F.No.27/2, 28, Anjagoundenpatti, Aravakkuruchi Taluk, Karur District.



2.The petitioner was given lease and licence to quarry rough stone at his patta land situated in S.F.No.27/2 and 28, Anjagoundenpatti village, Aravakkurichi Taluk, Karur District, for a period from 07.02.2018 to 06.02.2023.

3.Accordingly, the petitioner had been doing the quarry operations, however, there has been a notice, dated 24.06.2021, issued by the respondents, that is, the fourth respondent, wherein, certain allegations have been made against the petitioner that the petitioner had violated the quarry lease conditions. In response to the same, the petitioner claimed to have given a reply on 02.07.2021, thereafter, a report was obtained from Special Revenue Inspector of the fourth respondent office on 12.07.2021, and pursuant to which, the inter-departmental communication was issued by the fourth respondent to the Tahsildar, Aravakurichi, whereby, he was directed to inspect the quarry site, by making a measurement to verify as to whether the petitioner had confined his quarry operations only in the permitted site or he exceeded the permitted site.

4.In the meanwhile, the petitioner, since his quarry operation has been stopped, whereby, the transport permission slips, had not been issued to the petitioner to lift and transport the rough stone material already been quarried, he made a representation to the respondents, on 29.08.2021, to consider and issue the transport permits, and since the same has not been considered, he has approached this Court by filing the present writ petition.

5.Reiterating the aforesaid facts Mr.A.Rahul, learned counsel appearing for the petitioner seeks indulgence of this Court to give a direction by way of mandamus to the respondents, especially, the fourth respondent to issue transport permits for the petitioner to transport the already quarried rough stones.

6.However, Mr.D.Ghandiraj, learned Government Advocate appearing for the respondents, on instructions, would submit that, the petitioner, in violation of the lease conditions, had continued with the quarry operations, thereby, not only the permitted rough stone, but also gravel had been quarried, and the petitioner had not confined with the permitted site for quarrying operation, in fact, he had violated the same, and he had encroached upon the other land for quarrying operation, this has been found out during the inspection, and therefore, in order to have a thorough inspection, the Tahsildar had been directed by the fourth respondent by his proceedings, dated 04.09.2021, to measure the land concerned, that is, the quarry site and to file a detailed report and in this regard, one such report is received from the Thasildar concerned, based on which explanation is called for from the petitioner, and after getting his explanation, and after giving an opportunity of being heard, the final decision would be taken, as to whether the



petitioner can be permitted to continue the quarry operation or not, and therefore, till such time, no transport permission can be given to the petitioner, he contended.

7.I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

8.Since some allegations have been made against the petitioner, it has to be first met by the petitioner, for which, though a reply has been given on 02.07.2021 for the show cause notice, dated 24.06.2021 subsequently, some more report had been received by the fourth respondent followed by the communication, dated 04.09.2021, whereby, the concerned Tahsildar had been directed to measure the quarry site and to file a report, and in this regard, though it is claimed by the learned counsel for the petitioner that a few days back, some inspection had been conducted, whether such an inspection has been conducted or not, is not been confirmed by the learned Government Advocate appearing for the respondent. However, the learned Government Advocate, by the instant instructions he has received from the officials concerned, would submit that, an inspection had been conducted on 03.09.2021. After 03.09.2021 inspection, now, 04.09.2021 proceedings has been issued to the Tahsildar concerned, therefore, based on which, the aforesaid directions whether had been complied with or not is not known.

9.Be that as it may, if at all any inspection conducted by the Tahsildar to have the measurement of the quarry site, and to file a report, a copy of such report to be filed in this regard shall be served to the petitioner, and if no such inspection or measurements so far has been taken, before taking such measurement, a notice can be given to the petitioner, and in his presence, such a measurement can be taken and accordingly, a report can be prepared and submitted to the fourth respondent, who, in turn, supply a copy of the report to the petitioner, who on receipt of the same, shall be at liberty to respond the same and after getting the reply, and after affording an opportunity of being heard to the petitioner, a final decision shall be taken by the fourth respondent, as to whether the petitioner can be permitted to continue the quarry operation till the expiry of the lease period.

10.The aforesaid exercise shall be undertaken by the fourth respondent and the concerned authorities/respondents, within a period of thirty(30) days from the date of receipt of a copy of this order. It is needless to mention that depending upon the decision to be taken in this regard, after getting the aforesaid report, after measurement, etc., the petitioner's claim to continue the quarry operation, would be decided and communicate to him.



11. With these directions, this writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Per.Admn)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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 Government
Industries Department
Fort George
Chennai-9.

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

3. The District Collector,
Karur District,
Karur.

4. The Deputy Director of Geology and Mining,
Karur District,
Karur.

+1 CC to M/s.A.RAHUL, Advocate (SR-29641[F] dated 20/09/2021)

+1 CC to M/s.SPL. GP (SR-29778[F] dated 21/09/2021)

**W.P. (MD) No.16966 of 2021
20.09.2021**

PS (CO)
GC/PM(08.11.2021) 4P 7C