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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.17185 of 2015

and

MP No.1 of 2013

G.Achuthan

Vs.

....Petitioner

1. The District Collector,
O/o.District Collector,
Minerals Division,
Vellore 9, Vellore District.
2. The Revenue Divisional Officer,
Tirupathur Region,
Vellore.
3. The Deputy Director,
Geology and Mining,
Vellore.
4. The Tahsildhar,
Tirupathur,
Vellore District

..Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in proceedings bearing No. Na. Ka.28/2007/minerals dt 15.5.2015 of the 1st respondent and quash the same and consequently direct the respondents to resurvey the land in petitioner presence in S.F. No.454/1A and 451/2 and 3.

For Petitioner : Mr.M.Suresh Kumar

For Respondents : Mr.K.M.D.Muhilan
Government Advocate



O R D E R

This writ petition has been filed challenging the proceedings of the 1st respondent dated 15.05.2015 wherein the 1st respondent rejected the representation made by the petitioner seeking for resurvey of the land in his presence in SF No.454/1A and 451/2 and 3.

2.The case of the petitioner is that he is running a granite quarry in the subject property and he had entered into a lease with the Government of Tamil Nadu on 31.05.2005 wherein the petitioner was permitted to quarry coloured granite in the identified area for a period of 20 years from 31.05.2005 to 30.05.2025. The further case of the petitioner is that he was quarrying within the permitted area and also paid the seigniorage fee and he was transporting the granite after obtaining proper transport permit.

3. It is stated that some complaints were received to the effect that the petitioner is quarrying beyond the permitted area and hence, an inspection was conducted by the Sub Collector, Tirupathur and he submitted a report to the District Collector on 08.12.2014 to the effect that the petitioner is carrying on the quarry operation within the permitted area.

4. The grievance of the petitioner is that a show cause notice dated 27.04.2014 was issued by the 1st respondent wherein the petitioner was informed that he had carried out unauthorized quarrying in the area beyond the permitted area and the petitioner was called upon to show cause as to why the lease granted in his favour should not be canceled. On receipt of this show cause notice, the petitioner gave a reply on 13.05.2015 and he also requested for the resurvey of the land in his presence. The request made by the petitioner was rejected by the 1st respondent through the impugned proceedings dated 15.05.2015. Aggrieved by the same, the present writ petition has been filed before this Court.

5. The 1st respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder :-

4. It is humbly submitted that, the petitioner was granted a multi colour granite quarry lease for a period of 20 years upto 30.05.2025 for quarrying multi colour granite in patta SF.No.454/1A, 451/2 and 451/3 of Athanavoor Village, Thirupathur Taluk, Vellore District vide G.O.(3D)No.25/Industries (MMB.1) / Department dated 15.4.2005. It is submitted that, the writ petitioner was already levied a penalty of Rs.80,31,766/- for the unauthorized removal of



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multicoloured granite blocks from Government poramboke SF.No.452/1 and 451/1 of Athanavoor Village, Thirupathur Taluk for a volume of 228.175 cbm vide Collector's proceedings Rc.No28/2007 (Mines) dt.28.01.2009.

It is submitted that, against the penalty order, the petitioner has filed a writ petition before the Hon'ble High Court of Madras in WP.No.4415/2009 in M.P.1/2009 and the Hon'ble High Court granted interim stay on 24.4.2009 and it is still pending before the Hon'ble High court.

It is submitted that, the lease granted area was again inspected by the Revenue Divisional Officer, Thirupattur and reported that, the petitioner has encroached in the Government Poramboke landin S.F.No.451/1 and in Patta S.F.No.452/2.

It is submitted that, based on the report of the Revenue Divisional Officer Thirupathur, the above area was inspected by the Joint Director/Deputy Director (i/c), Geology and Mining, Vellore, and reported that, the writ petitioner has quarried 3,168 cubic meters of coloured granite blocks from Government poramboke SF.No.451/1 and in the adjacent patta SF.No.452/2 unauthorisedly. It is submitted that, accordingly, a show cause notice had been issued to the writ petitioner, vide Collector's Rc.No28/2007 (mines) dt 27.4.2015 calling for his explanation within 15 days from the date of show cause notice.

It is submitted that, the writ petitioner in his reply dated 13.5.2015 has requested for resurvey of the area in his presence and also he has informed that, he has requested certain documents from the Revenue Divisional Officer, Thirupathur under Right to Information Act -2005 for furnishing his explanation and he has also requested to grant one month time for furnishing his explanation after the receipt of the document's from the Revenue Divisional Officer, Thirupathur and after completion of the resurvey of the area.

It is submitted that, the request of the writ petitioner for resurveying the area had been rejected vide Rc.No.28/2007(mines) dated 15.5.2015 and further 15 days time, alone has been granted to furnish his explanation.

It is submitted that, but, even after the lapse of the stipulated time the writ petitioner has not come forward to furnish his explanation and in this stage, the writ petitioner has filed the present writ petition against the show cause notice issued to him vide Rc.No.28/2007(mines) dt 27.4.2015.



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I deny all the allegations made by the petitioner except those which are specifically admitted herein. The writ petition filed is not maintainable in law or on facts.

Regarding the averments made in para -2 of the affidavit, it is submitted that, it is true that, the Multi coloured granite quarry lease had been granted to the writ petitioner for a period of 20 years in patta SF.No.454/1A (0.85.8), 451/2(0.81.3) and 451/3 (0.52.6) totally over an extent of 2.19.7 hecets of Athanavoor Village, Thirupathur Taluk, Vellore District for a period of 20 years and the lease deed agreement was executed on 31.5.2005 and the lease period is valid up to 30.5.2025. After the lease deed agreement was executed, the writ petitioner has commenced the quarrying operation and continued quarrying operation in the above area.

Regarding the averments made in para-3, of the affidavit, it is submitted that, it is true that, the writ petitioner has obtained transport permit for a quantity com of 23885.903 cbm of Multi coloured granite blocks, after remitting seigniorage charges of Rs.4,37,74,396/- up to February 2015 from this office, for the quarried multi coloured granite blocks from the lease granted area.

Regarding the averments made in para-4, of the affidavit, it is true that, the Sub Collector (i/c) Thirupathur has submitted an preliminary inspection report vide Rc.No.A1/3518/2014 dt 08.12.2014 stating that the writ petitioner has carried out quarrying operation within the lease granted area. But the 1st respondent without satisfying the preliminary report furnished by the Sub Collector (i/c) Thirupathur on 08.12.2014, he has directed the Revenue Divisional Officer Thirupathur to conduct detailed inspection of the lease area granted to the writ petitioner vide his letter Rc.No.28/2009 20.02.2015. Accordingly, the Revenue and Mining. has conducted that, the writ petitioner has encroached in the adjacent Government poramboke Divisional Officer Thirupathur has SF.No.451/2 and in the adjacent patta SF No 452/2. Based on that, the Joint inspection and reported that the writ petitioner has quarried unauthorisedly to a Director/Deputy Director (i/c) Geology and mining, Vellore has conducted inspection and reported that the writ petitioner has quarried unauthorisedly to a volume of 3168 Cubic meters of multi coloured granite blocks and recommended to take action as per Tamil Nadu Minor Mineral Concession Rule, 1959.

Regarding the averments made in para-5 and 6 of the



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affidavit, it is submitted that, a notice had been issued to the petitioner vide Rc.No.28/2009 (Mines) dated 08.4.2015 informing that, the quarry will be inspected by the Assistant Geologist on 10.4.2015 and the notice was received by the petitioner and acknowledged the receipt of the notice. It is humbly submitted that, accordingly the Assistant Geologist has conducted preliminary inspection on 10.4.2015 in the presence of the petitioner and his representative Thiru.N.Subash and recommended for detailed inspection to be carried out by the higher officer vide his report Rc.No.28/2007(Mines) dated 10.4.2015.

It is further submitted that, detailed inspection has been carried out by the Joint Director/Deputy Director (i/c) Geology and Mining, Vellore along with Assistant Geologist, special Revenue Inspector (Mines) and concerned survey officials on 17.4.2015. It is submitted that during the above inspection the petitioner Thiru.Achuthan was also present.

It is submitted that, the Joint Director/Deputy Director(i/c) Geology and Mining, Vellore after conducting the inspection, reported that, the writ petitioner cbm has quarried 3168 cbm of multi coloured granite blocks unauthorisedly by encroaching in the non lease granted area and based on his report dated 17.4.2015 a show cause notice had been issued to the writ petitioner vide RC.No.28/2007 (mines) dated 27.4.2015 calling for his explanation for the violation done by him.

It is submitted that, the inspection report of the Revenue Divisional Officer Thirupathur dated 27.3.2015 and the copy of the inspection report of the Joint Director/Deputy Director(i/c) Geology and Mining, Vellore dated 17.4.2015 along with the sketch showing the encroached portion in the non lease granted area has also been provided to the writ petitioner for furnishing his explanation. After the receipt of the show cause notice, the writ petitioner in his explanation dated 13.5.2015 has requested for resurvey of the area in his presence and he has also requested to grant one month time for the submission of his explanation.

It is submitted that, the request of the writ petitioner for re-survey of the area has been rejected vide District Collector's Vellore Rc.No.28/2007 (mines) dated 15.5.2015 for the reason that the survey has already been carried out by the District Level Officer of Survey Department and the writ petitioner has been granted 15 days time to submit his explanation.



6. Heard Mr.M.Suresh Kumar, learned counsel for the petitioner and Mr.K.M.D.Muhilan, learned Government Advocate appearing for the respondents.

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7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. It is true that the Sub Collector had conducted an inspection and submitted a report on 08.12.2014 wherein he has stated that the petitioner was carrying on with the quarry operation within the permitted area. The 1st respondent was not satisfied with this report and hence, directed the RDO, Thirupattur, to conduct a detailed inspection. It is seen from the counter affidavit that proper notice was issued to the petitioner with regard to the date of inspection and the inspection was carried out in the presence of the petitioner and his representative on 10.04.2015. Even in the impugned proceedings of the 1st respondent dated 15.05.2015, it has been specifically stated that there is no occasion for the resurvey of the land once again since an inspection has already been conducted in the presence of the petitioner.

9. This Court does not find any illegality in the impugned communication of the 1st respondent dated 15.05.2015. The petitioner has taken a stand as if he has not conducted the quarry beyond the permitted area. However, on inspection that was conducted in the presence of the petitioner, it was found that quarrying operations had been conducted beyond the permitted area. Even in the show cause notice, this fact has been specifically stated and it is found that the petitioner had quarried coloured granite block to the tune of 3168 cubic meters.

10. The ground taken by the petitioner as if the inspection was carried out in his absence is falsified by the specific stand taken by the 1st respondent in the counter affidavit wherein it is averred that the petitioner and his representatives were present at the time of inspection conducted on 10.04.2015 and the subsequent inspection conducted on 17.04.2015 by the Joint Director. In the light of the same, there is no scope for resurvey of the land as requested by the petitioner.



11. In the light of the above discussion, this Court does not find any merits in this writ petition and accordingly, the same is dismissed. It is left open to the 1st respondent to proceed further with the show cause notice issued to the petitioner on 27.04.2015 and take a decision strictly in accordance with law. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
O/o.District Collector,
Minerals Division,
Vellore 9, Vellore District.
2. The Revenue Divisional Officer,
Tirupathur Region,
Vellore.
3. The Deputy Director,
Geology and Mining,
Vellore.
4. The Tahsildhar,
Tirupathur,
Vellore District

+1cc to the Government Pleader, S.R.No.33105

W.P.No.17185 of 2015

PMK[co]
NSK/20/06/2022