



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.69 of 2012
and M.P.No. 1 & 2 of 2012

R.Kumaresan

...Petitioner

Vs.

The District Collector,
Vellore District,
Vellore

...Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to the order passed in proceedings in Na.Ka.No.108/2010 (Kanimam) dated 8.09.2011, quash the same and direct the respondent to execute the lease deed in favour of the petitioner in respect of the stone quarry bearing S.F.No.157 (Part-2) admeasuring 0.80.0 Hectare in Karappattu Village, Ambur Taluk, Vellore District within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.K.Muthukumarasamy

For Respondent : Mr.B.Vijay

Additional Government Pleader

O R D E R

The order dated 08.09.2011 passed by the respondent is sought to be quashed in the present writ petition. Further direction is sought for to direct the respondent to execute the Lease Deed in favour of the petitioner in respect of the stone quarrying.

2. The petitioner states that auction notice dated 20.10.2010 was issued and the petitioner participated in the public auction. He was the successful bidder and offered a sum of Rs.3,10,000/- as one time lease amount for a period of 5 years to quarry rough stone. The petitioner states that he paid the lease amount and the other charges, however, the lease deed was not executed.

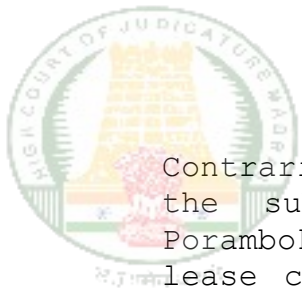


3. Meanwhile the respondent passed the order impugned dated 08.09.2011 by stating that the subject land was classified as grazing Government Poramboke and there is a prohibition issued in G.O.Ms.No.901, Revenue dated 08.09.2011 and G.O.Ms.No.959, Revenue (L) Department, dated 08.07.1987. When there is a prohibition to lease out those grazing Government Poramboke, the lease deed cannot be executed. The impugned order states that in view of the ban for leasing out the grazing Government Poramboke, the auction process was not continued and no lease deed was executed and further the petitioner was informed that he can get back the entire amount deposited by him.

4. The learned counsel for the petitioner states that the subject land is of vast extent and in respect of the same survey number, lease was granted even on earlier circumstances and even in the year 1997 & 2006, the lease was considered in respect of other persons. Therefore, the petitioner pray that the same benefit is to be extended to the petitioner and the lease deed must be executed and petitioner shall be permitted to commence quarrying operations. Further it is contended that the period of lease commenced from the date of commencing of quarrying operations and, admittedly, the petitioner has not been issued with the lease deed and therefore, he may be permitted to continue the quarrying operations.

5. The learned Additional Government Pleader appearing on behalf of the respondent objected to the said contentions by stating that under the provisions of the Tamil Nadu Minor Mineral Concession Rules, 1959 (in short 'Rules'), an appellate remedy is available under Rule 36C(2) of the Rules and the petitioner has not exhausted the appellate remedy. Further, the said property was classified as grazing Government Poramboke and in respect of grazing Government Poramboke, the Revenue Department of the Government issued specific ban for grant of lease, which came to the notice of the Authorities and therefore, they have not executed the lease deed and further informed the petitioner that he can get back the deposited amount by submitting an application.

6. When the the petitioner has not been granted with the lease by executing a lease deed, the petitioner cannot claim grant of lease. Thus, the writ petition needs to be rejected. The fact remains that the public auction was conducted, admittedly, the petitioner was a successful bidder. However, the lease deed was not executed during the relevant point of time.



Contrarily, the impugned order has been passed by stating that the subject property is classified as grazing Government Poramboke and as per the Government order, there is a ban and lease cannot be granted. When it came to the knowledge of the Authorities, they have stopped all further proceedings for grant of lease and directed the petitioner to get back the amount deposited by him.

7. This Court is of the considered opinion that the petitioner cannot claim grant of lease as a matter of right and no such direction can be issued directing the Government to enter into a contract with the petitioner for commencing of leasing operation. This apart, it is brought to the notice of this Court that the said subject land was not specifically leased out in favour of the any other person in view of the ban imposed by the Government. When the Authorities found that the subject property cannot be leased out, as per the ban order issued by the Government, they stopped all further proceedings. This Court did not find any infirmity or otherwise in respect of the order impugned passed by the respondent. The petitioner has been permitted to get back the amount deposited by him. This being the factum, no relief needs to be considered and consequently, the writ petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

8. The learned counsel for the petitioner states that the amount deposited is yet to be refunded. The learned Additional Government Pleader made a submission that the petitioner instead of getting back the deposited amount filed a writ petition and the writ petition is pending, therefore, the amount has not been refunded. Under these circumstances, the respondent is directed to return the amount deposited by the writ petitioner within a period of 12 weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

shr/ska



To

WEB COPY

The District Collector,
Vellore District,
Vellore

+1 CC to Mr.V.Sanjeevi, Advocate sr 5310.

W.P.No.69 of 2012
and M.P.No. 1 & 2 of 2012

PMK (CO)
SP (09/02/2022)