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WP.No.25063 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.25063 of 2016

G.Parameswari

...Petitioner

... Vs ...

The District Collector,
Kancheepuram District, Kancheepuram.

...Respondent

Prayer:- Writ Petition filed, under the Article 226 of Constitution of India, to issue Writ of Mandamus directing the respondent to return the 'Kisan Vikas Patras' numbering 31, the total value of which is Rs.12,83,000/-, which were handed over to the respondent, at the time of execution of lease agreement in respect of stone quarry measuring 5.00.0 Hectares, comprised in S.No.99, Quarry No.12, situated in Keerapakkam Village, [Malai Poromboke], Chengalpet Taluk, Kancheepuram District.

For Petitioner : Mr.K.Ramakrishna Reddy

For Respondent : Mr.B.Vijay
Additional Government Pleader



WP.No.25063 of 2016

ORDER

WEB COPY

This Writ Petition has been filed to direct the respondent to return the 'Kisan Vikas Patras' numbering 31, the total value of which is Rs.12,83,000/-, which were handed over to the respondent, at the time of execution of lease agreement in respect of stone quarry measuring 5.00.0 Hectares, comprised in S.No.99, Quarry No.12, situated in Keerapakkam Village, [Malai Poromboke], Chengalpet Taluk, Kancheepuram District.

2. The case of the petitioner is that she became successful bidder in respect of Stone Quarry measuring 5-00-0 Hectares, comprised in S.No.99, Quarry No.12, situated in Keerapakkam Village, [Malai Poromboke], Chengalpet Taluk, Kancheepuram District. The amount for the said quarry for 5 years was Rs.1,33,00,000/- and necessary lease agreement was executed on 19.02.2003 and the same has been duly registered. The said lease was for a period of five years commencing from 20.02.2003 to 19.02.2008. At the time of executing the lease agreement, the respondent directed the petitioner to obtain Kisan Vikas Patras for a total sum of Rs.12,83,000/- and the same was deposited with the respondent. After the completion of the lease period, i.e. on 18.02.2008, the same has to be



WP.No.25063 of 2016

WEB COPY

returned to the petitioner. It is also the case of the petitioner that as the quarry was running by obtaining interim Orders in the Writ Petition in W.P.No.3557 of 2008 and on the basis of the interim Order, quarry has been operated till 16.04.2010 for a period of two years and two months. She has also deposited a sum of Rs.1,33,00,000/- being the equivalent amount of the original bid amount and Rs.66,50,000/- being 50% over and above the said bid amount. After expiry of the lease period, the petitioner sought for return of the Kisan Vikas Patras and as the same has not been returned, the present Writ Petition has been filed.

3. Counter has been filed by the respondent to the effect that the lease was only for a period of 5 years and the lease period expired on 18.02.2008. As per Rule 8 [6] [c] [ii] [i] of the Tamilnadu Minor Mineral Concession Rules, 1959, the petitioner furnished security to the value of Rs.13,30,000/- through Kisan Vikas Patras. The petitioner filed a Writ Petition in W.P.No.3557 of 2008 and this Court by an Order dated 28.07.2009 directed the petitioner to pay 50% over and above the existing lease amount in addition to the seigniorage fees. Thereafter, the petitioner has closed quarrying activity only on 16.04.2010. The SLP filed against the said Order



WP.No.25063 of 2016

WEB COPY

of this Court has also been dismissed. It is their contention that while passing the interim Order in the Writ Petition, this Court directed the petitioner to deposit 50% of the amount over and above the existing lease amount in addition to the seigniorage fees and the District Collector will receive the amount without prejudice to the rights of the State and their submission that the petitioner have no right for running the quarrying activity. Only on the basis of the direction of this Court, the amount has been received. The petitioner has operated the quarry beyond the period of lease and closed the operation only on 16.04.2010.

4. It is their further contention that the Rule 10 [1] of the Tamilnadu Minor Mineral Concession Rules, 1959, any person in possession of the leasehold area after the expiry of the period of the lease or its premature termination or cancellation shall be deemed to be in unlawful possession of the said land and shall be liable to be punished as provided in Rule 36-A of the said Rule. However, Rule 28 [1] of the Tamilnadu Minor Mineral Concession Rules 1959, the Collector may require registered holder to relinquish the whole or part of the land used by him for mining operations



WP.No.25063 of 2016

WEB COPY

or for the deposit of mining waste or on expiry or sooner determination of the agreement, to restore the lands so used to a State fit for cultivation or securely and permanently fence in abandoned pits and excavation therein, in cases in which he considers such restoration or fencing necessary. In default thereof, the Collector, at his opinion, may carry out such work and deduct the cost thereof out of the security deposited by the lessee. Even after expiry of the lease period, as the petitioner has not handed over the possession of quarry, the petitioner cannot seek a direction to return the Kisan Vikas Patras.

5. The learned counsel appearing for the petitioner would contend that Rule 28 of the Tamilnadu Minor Mineral Concession Rules, 1959 will apply only to the registered holder. According to him, the registered holder will apply only to patta land and not to the Government land. Therefore, the respondent cannot retain Kisan Vikas Patras invoking Rule 28 of the Tamilnadu Minor Mineral Concession Rules, 1959. Therefore, submitted that the petitioner is entitled to refund of the Kian Vikas Patras and seeks a direction.



WP.No.25063 of 2016

WEB COPY

6. The learned counsel appearing for the respondent would submit that the amount has not been paid due to the violation of the contractual terms. Even as per the terms of the contract, the lease area has to be handed over immediately after expiry of the lease period. Though the petitioner has been granted lease in the year 2003 and the lease period expired on 18.02.2008, after expiry of the lease period, the petitioner filed a Writ Petition and obtained interim orders. While passing the interim Order, the Division Bench of this Court has held that the District Collector will receive the amount without prejudice to the rights of the State and further held that the petitioners have no right for running the quarrying activity. Therefore, merely because the petitioner continued in possession of the lease area after the expiry of the lease period, by filing Writ Petition, one after another, she cannot ask for return of the Kisan Vikas Patras. According to him, no Orders have been passed invoking Rule 28 of of the Tamilnadu Minor Mineral Concession Rules, 1959. Therefore, the contention of the learned counsel for the petitioner that Rule 28 of the Tamilnadu Minor Mineral Concession Rules, 1959 will not apply to this case cannot be countenanced. The contractual terms makes it very clear that if any question or dispute arise regarding the agreement executed in pursuance of the Rules or any



WP.No.25063 of 2016

WEB COPY

matter or thing connected therewith or the powers of the registered holders, the issue will be decided by Director of Geology and Mining. In the event, if the lessee is in occupation of the lease-hold area after the expiry of the period for which the lease has been granted after determination of the lease, lessee shall be deemed to be in unlawful possession of the lease area and he is liable to be evicted from the lease hold area in addition to being liable to be charged at double the rate of the lease amount or bid amount as the case may be, for the period of such occupation. Therefore, seeks to dismiss this Writ Petition.

7. It is not in dispute that the original lease has been executed on 21.01.2003 for a period of 5 years. At the time of the execution of the lease deed, Kisan Vikas Patras to the value of Rs.12,83,000/- has been deposited with the respondent. The lease period expired on 18.02.2008. As per the averments in the Writ Petition, it could be seen that the petitioner filed a Writ Petition in W.P.No.3557 of 2008, pursuant to the same, interim Order has been obtained and the quarry has been operated till 16.04.2010. The Division Bench while modifying the interim Order has categorically held that the petitioner has no right to run the quarrying activity. Thereafter,



WP.No.25063 of 2016

WEB COPY

another Writ Petition in W.P.No.23248 of 2016 has been filed by the petitioner for extension of the lease period. This Court in para 17, while passing Order in the above Writ Petition, has held that filing of the Writ Petitions in order to extension of quarrying period, knowing the fact that the petitioners have participated and accepted the terms and conditions of the lease and visited the site, conducted quarrying operations for five years and thereafter, turn around and take a decision to file a case for the purpose of seeking extension and in such circumstances, the petitioners are not entitled to any relief. In para 24 of the said Order, it has also been held that the lease period expired on 19.02.2008 and only by virtue of an interim Order, the petitioner was allowed to continue the quarrying operations and she deposited 50% over and above the original lease amount and such amount cannot be considered as excess amount than that of the amount in the event of allowing the Government to go for a fresh auction and finally, dismissed the Writ Petition.

8. Further, earlier also the petitioner has filed a Writ Petition for extension of the lease period in W.P.No.3557 of 2008 and the same has been dismissed and the SLP filed against the said Order has also been



WP.No.25063 of 2016

WEB COPY

dismissed. Therefore, once the lease period has expired and she continued in possession by filing repeated writ petitions, it cannot be said that their possession has been legalised by the operation of the Order of the Courts. The Writ Petitions have been, infact, dismissed by the Courts.

9. The contract entered between the parties makes it very clear that in the event the lessee continuing the possession after expiry of period, the possession has to be considered as illegal. Clause 9 of the lease agreement executed between the petitioner and the respondent makes it clear that if the lessee is in occupation of the lease hold area after the expiry of the period for which the lease has been granted after the determination of the lease, the lessee shall be deemed to be in unlawful possession of the said area and he shall be liable to eviction from the lease hold area in addition to being liable to be charged at double the rate of the lease amount or bid amount as the case may be, for the period of such occupation. As per Sub clause [4] of Clause 9 of the lease agreement, any question or dispute arise regarding the agreement executed in pursuance of the Rules or any matter or thing connected shall be decided by the Director of Geology and Mining. In case the registered holder/lessee is not satisfied with the decision of the



WP.No.25063 of 2016

WEB COPY

Commissioner of Geology and Mining, the matter shall be referred to the State Government for decision. In such view of the matter, in the absence of any impugned Order passed by the first respondent, the Court cannot issue a Mandamus directing the respondent to release the security deposited by way of Kisan Vikas Patras at the time of entering into the contract. Parties are governed by the contractual terms.

10. At this stage it is irrelevant to go in to the question whether Rule 28 of Tamilnadu Minor Mineral Concession Rules, 1959 will apply only to the registered holder or viz., patta or Government land alone, as long as there is no Order passed by the Government invoking Rule 28 of Tamilnadu Minor Mineral Concession Rules, 1959, it is premature for the petitioner to argue in this Writ Petition which has been filed seeking Mandamus to contend that the Rule 28 Tamilnadu Minor Mineral Concession Rules, 1959 will not apply to the Government lands. Whereas, the contract itself indicate that in the event of any dispute, the matter shall be decided by the Director of Geology and Mining and then it shall be referred to the Government in the event the parties are not agreeable to the decision of the Director of Geology and Mining. Such being the position, Mandamus cannot be issued



WP.No.25063 of 2016

WEB COPY

directly. If at all the petitioner have any grievance, she has to refer the matter to the Director of Geology & Mining as per the Contract. Admittedly, the petitioner had closed the quarry only in the year 2010, after expiry of the lease period. Merely because a Writ Petition has been filed, such possession would not be elevated as a legal possession or elevated as that of contractual period. The Division Bench had also made clear that any payment made by the petitioner will not prejudice the right of the state to take their legal stand. In such view of the matter, this Writ Petition is liable to be dismissed.

11. Accordingly, this Writ Petition is dismissed. No costs.

31.10.2022

vrc

To,

The District Collector,
Kancheepuram District, Kancheepuram.



WEB COPY



WP.No.25063 of 2016

N.SATHISH KUMAR, J.

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WP.No.25063 of 2016

31.10.2022