



W.A(MD)No.1012 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2023

CORAM:

**THE HON'BLE MR JUSTICE R. SURESH KUMAR
AND
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN**

**W.A(MD)No.1012 of 2013
and
M.P(MD)No.1 of 2013**

S.N.Sheik Mohideen

... Appellant

.Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to the Government,
Department of Geology and Mining,
Fort St. George,
Chennai-600 009.
- 2.The Assistant Director,
Department of Geology and Mining,
Tuticorin.
- 3.The District Collector,
Tuticorin,
Tuticorin District.



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4.The Tahsildar,
Srivaikundam Taluk,
Tuticorin District.

5.The Village Administrative Officer,
Kaliyavoor Village-628 253,
Tamil Nadu.

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act, to allow the writ appeal by setting aside the order passed by the learned Single Judge in W.P(MD)No.9758 of 2013, dated 14.08.2013.

For appellant : Mr.K.Vadivelu

For Respondents : Mr.R.Ragavendran
Government Advocate

JUDGMENT

(Order of the Court was made by R. SURESH KUMAR,J.)

This writ appeal has been directed against the order passed by the writ Court, dated 14.08.2013 made in W.P(MD)No.9758 of 2013.



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2. The petitioner/appellant is having patta land at Survey No.113/1 and 113/3 in Uzhakkudi Village, Srivaikundam Taluk, Tuticorin District, where, he wanted to have a quarry to take rough stones i.e., Minor Mineral.

3. But, his contention was that, so far as the taking of that rough stones from his patta land no permission or license is required to obtain from the District Collector nor payment of seigniorage fee as contemplated under Rule 18 of the Tamil Nadu Minor Mineral Concession Rules, 1959. In this context, he filed a petition on 21.01.2013 to the District Collector, who is the third respondent herein.

4. The said representation having been considered was rejected through the order, dated 25.03.2013 in the following terms:-

“In the petition cited above, Thiru.S.N.Sheik Mohideen has requested the District Collector to instruct his subordinate officers not to interfere with his proposed quarrying works in minor mineral in his patta land at SF.No.113/1 and 113/3 in Uzhakkudi Village of Srivaikuntam Taluk, stating that the word 'mineral' used in the Rule 18 of Tamil Nadu Minor Mineral Concession Rules 1959 does not specifically refer to minor mineral and he is free to do quarry work



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In this regard, it is informed to the petitioner that the title of the Rule is Tamil Nadu Minor Mineral Concession Rules, 1959, from which it is apparent that the Rule is applicable to minor minerals only. The petitioner's contention that the word 'mineral' used in the Rule 18 does not specifically refer to minor mineral is incorrect.

In view of the above, the petitioner, Thiru.S.N.Sheik Mohideen is not entitled to do any quarrying work in his patta land without getting permission from the authority concerned.

Sd/-

*For Collector,
Thoothukudi."*

5. Challenging the same, he filed the afore stated writ petition.

6. The learned Judge, who heard the matter, has passed an exhaustive order, dated 14.08.2013. Where, after having quoted various provisions of the 1959 Rules, has held that the petitioner even for patta land to have a quarry he must get a permit and he has to pay the seigniorage fee. The learned Judge ultimately held that the plea raised by the petitioner/appellant before the writ Court challenging the order passed by the District Collector, dated 25.03.2013 declaring that he is



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not entitle to do any quarrying work in his patta land without getting permission from the authorities concerned is sustained and the learned Judge dismissed the writ petition through the impugned order.

7. Assailing the same, present writ appeal has been filed and in support of the contention, Mr.K.Vadivelu, learned counsel appearing for the appellant would submit that, the word “Mineral” mentioned in the Rule -18 does not speaks about the minor mineral but the intention of the appellant to have a quarry/to excavate the rough stone is a minor mineral, therefore, he need not pay any seigniorage fee for having such quarrying activities and he need not get any permission from the District Collector, that was a stand he has taken and the learned counsel for the appellant wants to reiterate the said stand in this writ appeal also.

8. We afraid to hear a such proposition as projected by the learned counsel for the appellant.

9. The Minor Mineral Concession Rules 1959 (In short the 'Rule') has made it very clear that, especially under Rule 3, getting grant of quarrying permits an



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application for grant of a quarrying permits shall be made in the form prescribed in Appendix X to the Rules to the District Collector. The application shall be accompanied by various documents. Rule 3(2) says on an application made to the District Collector, he may grant a quarrying permit for any minor mineral other than the minor minerals covered under Rule 8-A and 8-C of the rules.

10. When that being the position, first of all, to have quarry to excavate a minor mineral, the appellant has to make an application to get a permission under Rule-3, only thereafter, whether he had to pay the seigniorage fee or not has to be dealt with under Rule 18, where, if it is commercial purpose or for a large scale quarrying of the mineral he has to pay the seigniorage fee. However, by having a pedantic interpretation of the word 'mineral' that has occurred in Rule 18 of the 1959 Rules, such a plea was raised by the appellant before the District Collector, which was negated, of course rightly, by applying the rules. This has been explained and a detailed order has been passed by the learned Judge through the impugned judgment by quoting various rules including Rule-3 as well as Rule-18.

11. Therefore, the appellant was under the total misconception with regard



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to the word 'mineral' or 'minor mineral', in fact it is immaterial whether the word occurred in the particular rules is 'mineral' or 'minor mineral', as has been rightly pointed out by the District Collector through the original order, which was impugned in the writ petition, that the very Rule itself is called Tamil Nadu Minor Mineral Concession Rules, therefore, the 'mineral' means only the 'minor mineral' not a 'major mineral'. Hence under Rule-3 permit has to be obtained by the appellant. Without even making an application to get a permission, he has made a request to the District Collector to permit him to quarry without permission and without paying the seigniorage fee, which is totally against the said rule. Hence, the rejection made in this regard by the District Collector is to be sustained as he has done it rightly in accordance with the rules of 1959 (Minor Mineral Concession Rules) and that has also been confirmed by the learned Judge in the impugned order, hence, it does not warrant any interference from this Court.

12. In fact, this appeal also is misconceived in this regard, therefore, even though we decided to dismiss the appeal with cost, but at the request of the learned counsel for the appellant, we are refrained from imposing any cost on the appellant, therefore, this appeal is dismissed without costs. Consequently,



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connected miscellaneous petition is closed.

[R.S.K.,J.] [K.K.R.K.,J.]
16.03.2023

Index : Yes / No

Internet : Yes / No

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