



WP(MD)No.25575 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.06.2023
PRONOUNCED ON : 20.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.25575 of 2019
and
WMP(MD)No.22139 of 2019

K.Malaisamy Natarajan

: Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Industries (MMB.1) Department,
St.George Fort, Chennai.

2.The Director of Geology & Mining,
Guindy, Chennai.

3.The District Collector,
Madurai District,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order of the first respondent made in Letter No.4309/MMB.



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1/2019-3, dated 21.10.2019, quash the same and consequently, directing the respondents to transfer the quarry permit vide G.O.(3D)No.9, Industries (MMB.1) Department, dated 10.03.2005, from the name of R.Veerachitra into the petitioner's name and permit him to quarry the multicolored granite in his patta land, measuring 1.53.0 Ares in S.No.49/4H & 49/4J in Perakoor Village, Madurai North Taluk, Madurai District.

For Petitioner : Mr.R.Suriyanarayanan

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General
Assisted by
Mr.M.Siddhardhan,
Additional Government Pleader

ORDER

This writ petition is filed against the order passed by the first respondent rejecting the request of the petitioner to transfer the quarry permit in the name of his deceased wife under G.O.(3D) No.9, Industries (MMB.1) Department, dated 10.03.2005 to his name.



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2. The petitioner's wife was awarded with a lease to quarry multicolored granite in their patta lands under Rule 19A of the Tamil Nadu Minor Mineral Concession Rules, 1959 for 20 years. The petitioner's wife expired on 28.10.2010 and since the petitioner is her legal heir, he sought for transfer of lease in his name. The request of the petitioner for transfer of lease was examined by the Government, in consultation with the Director of Geology and Mines. The Director of Geology and Mines, by letter dated 17.09.2019, has furnished his remarks as follows:-

"i. The Special Team constituted in Madurai District have reported large scale violations / unauthorized quarrying of granite carried out by 88 granite quarry lessees including the subject quarry lease.

ii. The Government vide G.O.Ms.No.181, Industries (MMB.1) Department, dated 28.11.2014 have ordered suspension of all mining operations in respect of granite quarry lease granted to Tmt.R.Veerachitra for the reason that, the lessee has not carried out the quarrying operations as per the approved mining plan which is a violation under Rule 19(1) of the Granite Conservation and Development Rules, 1999 and also for the unauthorized quarrying



detected in the lease granted area.

iii. A private complaint was also filed against the legal heir of the deceased lessee Thiru K.Malaisamy Natarajan before the Judicial Magistrate Court, Melur, in C.C.No.30/2015 on 05.02.2015 to take action under Section 21(1), 4-1 (A) and 21 (4-A) of the Mines and Minerals (Development and Regulation) Act, 1957, for the unauthorized stocking of 181 Granite blocks in his non lease patta lands. The case is pending before the Court.

iv. As per rule 23 of the Tamil Nadu Minor Mineral Concession Rules, 1959, the registered holder and the lessee shall be responsible for working mine properly and liable to the Government for any wrongful act or default.

v. As per condition No.26 of the lease deed executed by the lessee with the District Collector, it is mentioned that, in the event of any breach of the conditions of leases stated about, the lease become liable for termination of lease as per rule.

vi. The lease could have been transferred to the legal heir of the deceased lessee only when all the terms and conditions of the lease have been complied with. But in this case, large scale violations have been reported by the Special Team and further action will be initiated to levy penalty for the unauthorized quarrying of granite. The issue of irregularities in the granite quarries of Madurai District dealt in the W.P.No.16841 of 2014



includes this case also.

vii. *The request of Thiru K.Malaisamy Natarajan to transfer the lease granted to Tmt.R.Veerachitra for quarrying of Multicolour Granite over an extent of 1.53.00 hectares of patta land in S.F.Nos. 49/4H and 49/4J of Perakoor Village, Madurai North Taluk, Madurai District vide G.O.(3D)No.9, Industries (MMB.1) Department, dated 10.03.2005, deserves no consideration and hence, the request of the petitioner is recommended for rejection and the Government may pass suitable orders as per the existing Act and Rules in force.”*

3. Accepting these recommendations of the Director of Geology and Mines, the Government / the second respondent vide Letter No.4309/MMB. 1/2019-3, dated 21.10.2019, has rejected the request of this petitioner and the same is impugned in this writ petition.

4. The learned Counsel for the petitioner submitted that the lease was granted in the patta lands as per Rules 8A & 19A of Tamil Nadu Minor Mineral Concession Rules, 1959. The lease was granted in the name of the petitioner's wife, Veerachitra, for a period of five years upto 2010. The



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petitioner's wife died on 28.10.2010 and after three years, a show cause notice was issued by the first respondent on 02.07.2013 that certain lapses have been noticed in the quarry. By stating that the quarry operations were stalled after the death of the petitioner's wife, the petitioner submitted a reply to the show cause notice. Accepting the same, further actions were not taken by the first respondent. Thereafter, this petitioner submitted a representation on 11.08.2014 for transferring the lease in the name of the petitioner as he is the legal heir of Veerachitra. However, the same was rejected by the first respondent by the impugned letter dated 21.10.2019, based on the recommendations of the second respondent. The first respondent, before passing the impugned order, ought to have provided an opportunity of hearing to the petitioner. However, no such opportunity was given to the petitioner and therefore, the impugned order is liable to be set aside.

5. The learned Additional Advocate General submitted that the petitioner's wife has indulged in illegal quarrying and several lapses were noted in the subject quarry, for which, the Government has taken action as contemplated under the Mines and Mineral Concession Rules. He further



submitted that a private complaint has also been lodged as against the petitioner u/s.21 of the Mines and Minerals (Development & Regulation) Act, 1957 and the same is pending in C.C.No.30 of 2015.

6. The learned Counsel for the petitioner, in response, submitted that the lease in the subject land was granted only in the name of the petitioner's wife and she died on 26.10.2010. Whereas, this private complaint was filed by the District Collector only in the year 2021 as against the petitioner, as if, he is responsible for storage of certain granite blocks in S.No.49/4F. Regarding the same, the petitioner has filed an additional affidavit on 21.06.2023 and the same is extracted as follows:-

“4. I submit that as per the complaint in Spl.C.C.No.216 of 2021 on the file of Judicial Magistrate, Melur, there is 38 granite blocks in S.No.49/4F, 40 blocks in S.No.49/4K, 52 blocks in S.No. 49/4L1 and 51 blocks in S.No.49/4M, totalling 181 blocks, but, I am concerned with S.No.49/4F alone and I am hereby disowning the granite blocks found in the said survey number. As far as, the other survey number is concerned, it is not mine, but belonged to my deceased wife and she has not operated the quarry, after her demise and hence the allegations made in the complaint is incorrect and



further being a criminal complaint, the same cannot be against the petitioner, who is one of the legal heirs of the deceased licensee.”

7. This Court paid it's consideration to the rival submissions and also to the materials placed on record.

8. The petitioner requested to transfer the quarry permit to his name from the name of the his wife, pursuant to her death. The petitioner's wife died on 28.10.2010 and this request for transfer of lease was made on 11.08.2014. The petitioner is not entitled for transfer of lease as a matter of right, as per the decision of the Hon'ble Supreme Court in ***M.P.State Mining Corporation Ltd. v. Sanjeev Bhaskar*** reported in ***(2013) 12 SCC 326***, wherein, the Hon'ble Supreme Court has held as follows:-

“16. Further, in the year 1982 when the original lessee died, there was no provision for orders to continue the application for a mining lease. Legal heirs/representatives of the original lessee, if they wanted to continue the business or mining activity of the deceased and also if they had required qualification, could at best file an application for grant of fresh mining lease. Admittedly, after



the death of the lessee (7-9-1982), legal heirs including the first respondent never applied for fresh grant of lease. It has also not been made clear that whether any one of them have required qualification for grant of mining lease.

17. In view of the aforesaid fact, we hold that after the death of the original lessee, Rajendra Nath Bhaskar, all rights come to an end and the first respondent or any other legal heir(s) were neither entitled to continue with the lease nor entitled for renewal of lease.”

9. It appears that even before the request of this petitioner dated 11.08.2014, the third respondent / the Licensing Authority has conducted an inspection on the petitioner's quarry and found some lapses, for which, a show cause notice was also issued and the said process has not been culminated further. Therefore, on this ground also, this Court is not inclined to issue any positive direction in this writ petition. As far as the transfer of lease is concerned, by referring the lapses pointed out by the Director of Geology and Mines, the first respondent has rightly rejected the request of this petitioner.



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10. Pending this writ petition, the petitioner has also filed an additional affidavit disowning the granite blocks which were lying in S.No.49/4F. Since the original licensee died and in view of the affidavit filed by the petitioner, the third respondent shall confiscate the granite stones in S.No.49/4F, which are the subject granite stones in Spl.C.C.No.216 of 2021 and shall consider to compound the offence. If the petitioner is prepared to pay the remaining compounding charges (if any) for the violation of the subject quarry, he shall do so. After compounding of the offences, the petitioner shall submit a fresh application for lease and the same shall be considered in accordance with law.

Accordingly this writ petition is disposed and the connected miscellaneous are closed. No costs.

Index : Yes / No
NCC : Yes / No
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20.10.2023

To

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Industries (MMB.1) Department,
St. George Fort, Chennai.



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