



W.P. No.2192 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2024

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.2192 of 2021
and
W.M.P. No.2481 of 2021

L. Krishnamurthy

.... Petitioner

Versus

1. The Government of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Industries Department,
Fort St. George,
Chennai – 600 009.

2. The Director of Geology and Mining,
Department of Geology and Mining,
Guindy,
Chennai – 600 032.

3. The District Collector,
Cuddalore District,
Cuddalore.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari to call for the records relating to the impugned order of the 3rd respondent passed in Na.Ka. No.1094/Kanimam/2016, dated 28.02.2020, quash the same.

For Petitioner

: Mr.V. Sanjeevi

For Respondents

: Mr.E. Vijay Anand,
Addl. Govt. Pleader.

ORDER



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Challenging the impugned order passed by the 3rd respondent in

Na.Ka. No.1094/Kanimam/2016, dated 28.02.2020, this writ petition has been filed.

2. It is stated that the Government was granted mining lease to the petitioner for mining fire clay (major mineral, which has now become minor mineral) from the poromoboke lands bearing S.F. Nos.94/1, 109/1 and 123 over an extent of 23.00. Hectares in Thiruvanthipuram Village, Cuddalore District, formerly South Arcot Vallalar District for a period of ten years, vide G.O. Ms. No.1648 Industries (MMA 1) Department, dated 30.12.1976. Thus, the lease period commenced from 15.05.1978 to 14.05.1988. Subsequently, the petitioner made an application for renewal (1st renewal) for mining in respect of Survey No.109/1(restricted) admeasuring 4.04.7 Hectares in Thiruvanthipuram village. Thereafter, the Government vide G.O. Ms. No.610, dated 02.11.1992 sanctioned the grant of renewal of mining lease for a further period of five years beyond 14.05.1988. Later, he submitted application for revising the said lease period for renewal to ten years, instead of five years and the same was also sanctioned by the Government vide G.O. Ms. No.37, dated 02.02.1994, thereby the renewal of lease was revised to 10 years from 14.05.1998.

3. According to the petitioner there was no mining operations for the period from 15.05.1988 to 10.04.1994. Subsequent to the submission of



2nd application for renewal of mining lease by the petitioner, the Government, by amending Rule 24A of the Mineral Concessions Rules, 1960 permitted him to carry on mining activities on the ground of deemed extension of lease. Since he submitted the 2nd application well within the time stipulated under Section 24 A of the Act, the said deemed extension of lease was permitted. While so, after a lapse of decade, the 3rd respondent passed the impugned order demanding a sum of Rs.1,30,092,300/- towards surface rights compensation. Aggrieved over the said demand, this writ petition has been filed.

4. Learned counsel for the petitioner submitted that the impugned order, dated 28.02.2020 passed by the 3rd respondent is without authority of law and jurisdiction. He vehemently argued that based on the report of the RDO, Cuddalore, that too without giving any opportunity or any notice to the petitioner, the 3rd respondent has fixed the compensation, which is arbitrary and non-est in the eye of the law. Thus, the impugned order is in gross violation of the basic principles of natural justice. Secondly, the demand of surface rights compensation for the period from 1978 to 1990 is hopelessly barred by limitation and the same is unenforceable. He mainly contended that though the application for 1st renewal was made by the petitioner, such renewal was granted in the year 1992, which was for a period of five years only and subsequently the same was extended to ten



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years. Due to which, the lease deed was executed only on 11.04.1994 and at the relevant point of time, there was no deemed extension of lease.

When there was no mining operations carried out by the petitioner for the period from 15.05.1988 till 11.04.1994, the demand of compensation, calculating those non lease period is highly illegal and unsustainable. In view of the above reasonings, he prays for quashment of the impugned order, dated 28.02.2020 and seeking for issuance of appropriate directions.

5. Mr.E. Vijay Anand, learned Additional Government Pleader appearing for the respondents vehemently opposed the contentions raised by the petitioner and submitted his arguments based on the detailed counter affidavit. He submitted that the lessee (petitioner) had quarried and removed 560 M.T. during the period from 14.05.1988 to 13.05.1989 on payment of royalty of Rs.3250/-. Hence, the claim of the petitioner in respect of non mining operation period may be rejected by this Court. He further submitted that Rule 72 of the Mineral Concession Rule 1960 provides for levy and collection of Surface Rights Compensation. Accordingly, he submits that the order passed by the 3rd respondent is proper and thus, it calls for no interference of this Court.

6. Further, he submitted that subsequent to the demand order, dated 28.02.2020, the respondents have issued Proceedings, dated 27.10.2020



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with regard to non-payment of the demand and objections if any to be filed before the 3rd respondent, within a stipulated time. He had placed a copy of the said Proceedings, dated 27.10.2020 before this Court for perusal.

7. During the course of the arguments, learned counsel for the petitioner intervened and vehemently objected the said submission and stated that the Proceedings, dated 27.10.2020 is only a reminder.

8. Learned Additional Government Pleader appearing for the respondents continued his arguments and submitted that the issue involved in this writ petition has already been decided by this Court in the order dated 20.11.2019 passed in WP No. 4373 of 2000 etc., batch , wherein this Court dismissed the writ petitions filed by the similarly placed persons like the petitioner herein. Subsequently, the aforesaid decision was followed by Hon'ble Single Judges of this Court. In the light of the above submissions, he prays for dismissal of the instant writ petition.

9. This Court heard and considered the submissions made by the learned counsel on either side and perused the materials placed before it.

10. It is not in dispute that the impugned demand notice was issued by the 3rd respondent demanding a sum of Rs.1,30,092,300/- towards surface rights compensation. As rightly contended by the learned

Additional Government Pleader, the issue involved herein was decided by



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this Court earlier and it is applicable to this case as well. Though very many grounds have been raised by the petitioner, the point projected before this Court is that there is some laxity on the part of the respondents with regard to the issuance of show cause notice. But the petitioner cannot take such laxity as a matter of right and therefore, this Court is inclined to exercise its extraordinary jurisdiction to issue a direction to that effect to the petitioner. Thus, this Court issues a direction to the petitioner to treat the impugned demand dated 28.02.2020 as well as the subsequent reminder, dated 27.10.2020 as show cause notices and the petitioner is directed to submit his objections / reply to the 3rd respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of reply / objections, if any, from the petitioner, the 3rd respondent shall pass appropriate orders on merits and in accordance with law, within a period of four weeks, thereafter.

11. Till the completion of the aforesaid exercise, the respondents are further directed not to insist upon payment of the demand made in the impugned order.

12. With the above observations and directions, without interfering the impugned order, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.



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Index : Yes / No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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To
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The Government of Tamil Nadu,
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2. The Director of Geology and Mining,
Department of Geology and Mining,
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M.DHANDAPANI, J.

vsi2

3. The District Collector,
Cuddalore District,
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