



WEB COPY



W.P.No.17209 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.17209 of 2020

and

W.M.P.Nos.21262 and 21264 of 2020

R.Chellammal
President
Sri Kamatchiamman Magalir Suya Udhavi Sangam,
Kottapalayathar Line House,
Near Pachaiaimman Koil,
No.3/67, Pudhur, Kumaramangalam,
Tiruchengode Taluk,
Namakkal District – 637 205.

...Petitioner

-Vs-

1. The District Collector,
Namakkal District Collectrate,
Namakkal District.
2. The Director,
Geology and Mining Department,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai – 600 032.
3. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tiruchengode Taluk,
Namakkal District.



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4. The Tahsildar,
Office of the Tahsildar,
Tiruchengode Taluk,
Namakkal District.
5. The Village Administrative Officer,
Office of the Village Administrative Officer,
Tiruchengode Taluk,
Namakkal District.
6. The President,
No. 87, Koundampalayam Panchayat,
Kumaramangalam Village,
Namakkal District.
7. Eswaran
8. The Superintendent Engineer,
TANGEDCO,
Namakkal.
9. The Assistant Engineer,
TANGEDCO,
Kumaramangalam Pudhur,
Thiruchengode Taluk,
Namakkal District.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 06.11.2019 bearing Na.Ka.No.176/Mines/2017 issued by the 1st respondent and quash the same and consequently direct the 1st respondent to extend the lease period granted to the petitioner and further direct the 8th respondent to remove the Electricity service line passing from S.No.136,



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Kumaramangalam Village, Tiruchengode Taluk, Namakkal District to the residence of the 7th respondent above the quarry leased out to the petitioner so as to enable the petitioner to do the quarrying work.

For Petitioner : Mr.K.Venkateswaran
For R1 to R5 : Mr.E. Vijay Anand
Additional Government Pleader
For R6 & R7 : No appearance
For R8 & R9 : Mr.S.Kalai Selvan
Standing Counsel for TANGEDCO

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 06.11.2019, thereby cancelled the lease granted in favour of the petitioner.

2. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 to 5 and the learned Standing Counsel for the respondents 8 and 9 and perused the material available on record.



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3. The petitioner, being one of the quarry labour community participated in the public auction for 10 stone quarries in Kumaramangalam Village, Tiruchengode Taluk, Namakkal District in respect of land comprised in Poramboke Survey No.138/2 (part), ad-measuring to an extent of 0.50.0 hectares. The petitioner Association had participated in the auction and declared as a highest bidder. Accordingly, the petitioner was granted lease hold right to do stone quarrying activities to an extent of 0.44.0 hectares for a period of five years from 09.06.2016 to 08.06.2021. As per the provisions of concession Rule 8(10-A)(C) of the Tamil Nadu Small Minerals Act to the women's help-group in which under the special concession, the petitioner was given 50% concession to bid the auction on payment of four equal installments each at Rs.1,65,000/- commencing from 23.07.2015. The petitioner, being a successful bidder had paid the first installment. Thereafter, the petitioner failed to pay other three installments as per the schedule of the lease agreement. Therefore, the first respondent cancelled the lease agreement. Hence, this writ petition.



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4. The learned counsel for the petitioner would submit that only because of the interruption of the 7th respondent herein, the petitioner was unable to continue to quarry in the said land. In fact, the 7th respondent submitted a complaint to cancel the lease agreement granted in favour of the petitioner before the first respondent. It was not considered and as such, the 7th respondent filed a writ petition before this Court in W.P.No.6135 of 2017. This Court, by an order dated 14.03.2017 directed the respondents to pass orders after giving an opportunity of hearing to the 7th respondent herein as well as the petitioner and dispose of the representation, within a period of eight weeks. Accordingly, the respondents had conducted enquiry and rejected the request made by the 7th respondent. Aggrieved by the same, the 7th respondent preferred an appeal before the second respondent. By an order dated 04.02.2019, the appeal preferred by the 7th respondent was also dismissed. Therefore, the petitioner was unable to continue quarrying in the said land. Hence, the petitioner failed to pay installments as per the lease agreement.



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5. A perusal of records and the counter filed by the first respondent revealed that as per the lease agreement, the petitioner ought to have paid the installments 2 to 4, on or before 06.03.2017. Though the petitioner continued to quarry the subject land, the petitioner did not pay the installments as per the lease agreement. That apart, there is no prohibitory order, thereby restraining the petitioner from quarrying the subject land from any authority concerned. Though the 7th respondent objected to quarry the said land, there is no prohibitory order as against the petitioner. Further, without remitting the lease amount, which had been fixed by adopting 50% remission to the normal one, the petitioner is having no rights to continue or requesting to allow them to continue the regular quarrying operations are not valid.

6. That apart, there is an appeal under Statute as per Rule 36 of Tamil Nadu Minor Minerals Concession Rules, 1959. Accordingly, if any person aggrieved by any order made by the first respondent in exercise of the powers conferred on him by these rules, except on appeals under sub-rule (1) may, within 30 days from the date of communication



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of the order to him, appeal to the Director of Geology and Mining against the order. However, the petitioner without exhausting the statutory appeal, directly approached this Court by way of this writ petition under Article 226 of Constitution of India. That apart, the 7th respondent filed a writ petition before this Court only in the year 2017. Whereas, the 4th installment falls on 06.03.2017 and even before filing the writ petition, the petitioner committed default in payment of installment as per the lease agreement. Only after committing default, the 7th respondent lodged a complaint and filed a writ petition before this Court. Therefore, the reasons submitted by the learned counsel for the petitioner cannot be countenanced.

7. In view of the above, this Court finds no infirmity or illegality in the order passed by the first respondent and this writ petition is devoid of merits and is liable to be dismissed. However, the petitioner is at liberty to approach the first respondent to continue the lease period, if the subject land is available without any lease agreement in favour of other party.



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8. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.

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Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
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To

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G.K.ILANTHIRAIYAN. J,

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