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W.P.No.12724 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

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THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P.No.12724 of 2021

K.Thirumal

.... Petitioner

Vs

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Director of Geology and Mining
Guindy Institutional Area,
SIDCO Industrial Estate, Chennai,
Tamil Nadu 600032.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India

praying to issue a Writ of Mandamus directing the first respondent to grant or extend the period of lease beyond 28.02.2021 for the unutilized period of 1506 days in respect of quarry operation in the land to an extent of 1.30.0 Ha at S.No.45/2C (Part-4), Athipadi Village, Tiruvannamalai Taluk, Tiruvannamalai District in favour of the petitioner.

For Petitioner : Mr.K.S.Viswanathan
Senior counsel
for Mr.V.Suthakar

For Respondents : Mr.Stalin Abhimanyu



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Additional Government Pleader

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ORDER

The petitioner has sought a mandamus directing the 1st respondent/the District Collector, Tiruvannamalai to grant/extend period of lease beyond 28.02.2021 for a period of 1506 days in respect of operation of the quarry in the property at survey No.45/2C (Part-4), Athipadi Village, Tiruvannamalai Taluk, Tiruvannamalai District ('property'/'property in question').

2. There are several factual assumptions that have been made in the writ affidavit and the petitioner also makes reference to various orders that he states that are in his favour qua the relief sought. Being a writ Court, I am not inclined to look into the facts as it is for the authorities to do the same.

3. In fact, the petitioner has made a representation on 27.02.2021 seeking extension of time contending that the period between 2016 and 2021 was to be waived as it was unable to operate the quarry for want of granted environmental clearance.

4. The petitioner had been granted lease vide proceedings dated 01.03.2011 for the period 2011 to 2021. According to the petitioner, he has made an application on 2016 for grant of environmental clearance



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which is still pending. Not even a copy of the same has been furnished as part of the writ petition and thus, this Court is unaware of whether at all environmental clearance has been sought.

5. The counter filed by R1 is categoric to the effect that no environmental clearance has been obtained and it is for this reason, that lease was rendered inoperative. This emanates very categorically from a reading of paragraph No.14 of counter dated 25.11.2021 extracted below:

“14.I submit that in respect of the contentions of the Petitioner in paras 17, 18, 19, & 20 of the Affidavit are beyond scope of the provisions contained in the Acts and Rules. The Petitioner has stated that he was unable to operate the quarry since 14.01.2017 till date which amounting to 1506 days due to the enforcement of the regulations in obtaining Environment Clearance for the lease granted as early in the year 2011. It is further stated a representation was made to Respondents 1 and 2 with a request to extend the lease period beyond 28.02.2021 i.e., the date on which the original lease was expired considering the said 1506 days as non-operative period. The contention of the Petitioner in these paras can't be accepted on the reason that at the time of executing the lease deed, it is clearly indicated that the period of lease commences from the date on which the lease deed is executed and the period of 10 years would be counted from the execution date as such the Petitioner is entitled the period of lease of 10 years from 01.03.2017 to 28.02.2021. Moreover the lease hold area was not operated for want of Environment Clearance and hence the non-operative period of 1506 days can't be considered for extending the period of lease beyond the date of expiry of the lease i.e.



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28.02.2021. Further, the period of lease is a well settled one and accepted by both the Petitioner and the 1st Respondent and at no point of time, it was not agreed to extend the period lease beyond the original lease period treating the non-operative period as loss of lease period to the Petitioner. Further the subject matter stone quarry was granted on lease for a period of 10 years as per Rule 8(8) of Tamil Nadu Minor Mineral Concession Rules 1959, since the subject matter stone quarry was virgin at the time of notifying in the District Gazette inviting applications for the grant of lease through Tender-cum-Auction system. It is further submitted that sub-rule (ii) of rule 8 (8) of Tamil Nadu Minor Mineral Concession Rules 1959, clearly states the leases granted under Rule 8 (8) shall expire on the date specified in the lease deed and in no case extension of the period of the lease shall be made. Accordingly the request made by the Petitioner through his representation dated 27.02.2021 can't be considered as per the Tamil Nadu Minor Mineral Concession Rules 1959 and accordingly the request is summarily rejected.”

6. In fact the petitioner has not denied the above position before me. Hence, the admitted position is that there has been no environmental clearance that has been obtained for the property. In such circumstances, the prayer for mandamus directing R1 to permit licensing operations cannot be countenanced in the absence of environmental clearance, and is hence, rejected.

7. Respondents bring to my note an order passed on 03.06.2024 in W.P.No.31334 of 2018 in the case of *K.R.Christu Raj V. The District*



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Collector, Tiruvannamalai District and others where also a similar prayer has been dismissed. In that case, the learned Judge has permitted the petitioner to approach the respondents by way of a representation.

8. In this case, though the petitioner has made a representation, in view of the admitted position that the petitioner has not obtained necessary environmental clearances thus far, I see there is no need for disposal of the representation as it contains a plea, which is itself contrary to law.

9. This writ petition is dismissed in the above terms. No costs.

02.07.2024

Index: Yes/No
Speaking order: Yes
Neutral Citation: Yes
mpl

To

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