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W.P.No.11841 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM:

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

W.P.No.11841 of 2021

Saxavos Enterprises,
Represented by its Managing Partner,
Babu K.Lona,
Office at Door No. XXII/693,
Thekkemadathil, Koonamave House,
Manthamkolly, Pazhupathoor Post,
Sulthan Bathery,
Waynad – 673 592,
State of Kerala.

...Petitioner

-Vs-

1. The District Collector,
Dharampuri,
Dharampuri District.
2. The Assistant Director of Mining,
Dharampuri,
Dharampuri District.
3. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Dharampuri,
Dharampuri District.
4. G.Sekhar

...Respondents



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Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to terminate the mining license granted to the fourth respondent based on the petitioner's representation dated 10.02.2021, within a stipulated period.

For Petitioner : Mr.P.Tamilavel

For R1 and R2 : Mr.E.Vijay Anand
Additional Government Pleader

For R3 : Mrs.Shanmugavalli Sekar

For R4 : Mr.R.Prabudoss

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the first respondent to terminate the mining license granted to the fourth respondent based on the petitioner's representation dated 10.02.2021, within a stipulated period.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner had entered into an agreement with one Sradha Sekhar to do mines and mineral business. At the time of entering lease



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agreement, crushing unit was not functioning and the same was in sick. It was clearly stated in the agreement, that renewing their licenses, making both the mining and crushing unit functional and sharing an equal profit from its returns for tenure of 5 years. Based on the said agreement, for quarrying and carrying minor mineral entered between the first respondent and the Sradha Sekhar by the proceedings dated 20.07.2018 granted lease agreement for a period of five years for removal of rough stone in patta lands situated at Kalappamahalli Village, Karimangalam Taluk. The petitioner had invested huge money, manpower, machinery, technology and numerous intangible assets to develop and increase the efficiency of the business. While being so, on 24.04.2019, the said Sradha Sekhar expired and the successor and legal heir of the deceased/ fourth respondent herein executed a supplementary agreement to continue quarry operation for remaining period. Accordingly, the supplementary lease agreement has been entered into between the first and fourth respondents dated 17.07.2019 for a period from 08.03.2019 to 07.03.2024. However, now, the fourth respondent, without obtaining any permission from the first respondent, leased out mining quarry and



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crushing unit and No Objection Certificate was not obtained from the Tamil Nadu Pollution Control Board.

4. A perusal of the counter filed by the fourth respondent revealed that the petitioner had entered into an agreement dated 25.04.2018 for the purpose of maintaining and to carry out the repair works on the machineries in the crushing unit. The said agreement does not mean any sub-let or sub-lease. Further, the fourth respondent refused the petitioner firm to continue and maintain and to carry out the repair works in the crushing unit. Therefore, now, the petitioner submitted a representation to terminate the mining license granted to the fourth respondent. Clause 10 of the terms and conditions of the agreement revealed as follows:-

“ 10. In case of any disputes within the parties both of them specifically agree that in reference to all matters of dispute in relation to the this agreement shall be mutually resolved and if it is not possible then the Local Civil Courts shall have jurisdiction.”

5. Therefore, in dispute between the petitioner and the fourth respondent, the petitioner has to approach the Civil Court for appropriate relief. That apart, a perusal of the counter and the submissions made by



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the learned counsel appearing for the third respondent revealed that the fourth respondent is operating a quarry to an extent of 2.55.5 hectares, after obtaining all license and No Objection Certificate from the department concerned. The fourth respondent is also operating stone crusher unit in the name and style of M/s V.T.R.V.Blue Metals. On the representation submitted by the petitioner alleging that the fourth respondent has not obtained No Objection Certificate from the Pollution Control Board, the fourth respondent was called for enquiry on 25.02.2021 by the third respondent. Accordingly, the fourth respondent Unit was also inspected by the Pollution Control Board. During inspection, it was observed that the Unit was not in operation and no production was observed so far. Therefore, the fourth respondent was instructed to apply and obtain the consent of the Pollution Control Board before resuming its activity. However, the fourth respondent, by its communication dated 23.03.2021, duly informed that the Unit is not in operation due to financial crisis. It was recorded and closed. Further, the fourth respondent has filed an application seeking fresh consent of the Board to manufacture the products and consent to operate has been



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issued to the said Unit by the third respondent. Further, the fourth respondent Unit was inspected by the Assistant Environmental Engineer, Tamil Nadu Pollution Control Board and observed that the Unit was in operation and manufactures Blue Metal Jelly, M and P sand with Air Pollution Control Measures to the machineries provided and the Unit has also provided water sprinklers.

6. In view of the above, the direction sought for in this writ petition cannot be considered and this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition is dismissed.

No costs.

01.04.2024

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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