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W.P.No.10805 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. No.10805 of 2024

K. Lakshmi Malliga

... Petitioner

Vs.

1. The District Collector,
Salem.
2. The Deputy Director of Mines,
Department of Geology and Mining,
Collectorate,
Salem.
3. The Assistant Director,
Department of Geology and Mining,
Collectorate,
Salem.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, for issuance of writ of Mandamus, directing the respondents to execute the lease deed in favour of the petitioner for quarrying of rough stone in Survey No.212/3 (Part) of an extent of 1.00.0 hectares in Masinaickenpatti Village, Vazhapadi Taluk, Salem District within such time frame as may be fixed by this Court.

For Petitioner

: Mr.T.Sai Krishnan

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For R1 to R3

: Mr.Stalin Abhimanyu
Additional Government Pleader

ORDER

The writ of mandamus has been instituted to direct the respondents to execute the lease deed in favour of the petitioner for quarrying of rough stone in Survey No.212/3 (Part) of an extent of 1.00.0 hectares in Masinaickenpatti Village, Vazhapadi Taluk, Salem District.

2. The petitioner was a successful bidder. Admittedly, the Lease Deed has not been executed so far. Therefore, right has not accrued on the petitioner. Execution of Lease Deed cannot be claimed as an absolute right. Lease Deed is to be executed only after verification of credentials and other aspects of the matter in order to protect the nations wealth. There are large scale allegations and illegal minings across the State of Tamil Nadu. Several crores of rupees are swindled at the cost of the people. Therefore, the Government is duty bound to protect the mines and minerals and the mining operation are to be allowed scrupulously by following the Rules and Regulations and any sought of illegal minings at no circumstances be permitted.

3. Though the petitioner was a successful bidder, the Lease Deed



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was not executed. Thus, the present writ petition came to be instituted seeking a direction to execute the Lease Deed.

4. Mr.Stalin Abhimanyu, learned Government Pleader appearing on on behalf of the respondents submitted a written instruction from the Deputy Director, Department of Geology and Mining Department, Salem *vide* letter dated 22.04.2024, wherein the following facts are stated:

“i) The Writ Petitioner Tmt.K.Lakshmi Malliga W/o.Kasi Viswanathan has participated in the Tender cum Action held on 06.02.2020 as notified in the Salem District Gazette Extra-Ordinary No.03 dated 22.01.2020 and declared as highest bidder for offering an amount of Rs.14,12,000/- for the grant of Rough stone quarry lease in the Government Poramboke land S.F.No.212/3 (part) over an extent 1.00.0 hectares of Masinaickenpatti Village, Valapady Taluk, Salem District. Hence, the writ petitioner has been directed to produced approved Mining plan, Environmental clearance and consent to operate obtained from the Authorities concerned vide the District Collector, Salem in Rc.No.183/2020/Mines-A dated 26.05.2020.

ii) Accordingly, the writ petitioner has submitted the Mining Plan and the same was approved by the Assistant Director (i/c) of Geology and Mining, Salem vide letter in Rc.No.183/2020/Mines-A



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dated 19.06.2020. Further, the lessee has also obtained Environmental Clearance from the State level Environment Impact Assessment Authority-Tamil Nadu vide letter No.SEIAA-TN/F.No.7847/a(a)/E.C.No.4925/2021 dated 03.11.2021. Also, she has also obtained the consent to operate from the Tamil Nadu Pollution Control Board, Salem vide consent No.2305144200249 dated 27.01.2023 and produced all the above through her letter dated 01.09.2023.

iii) Meanwhile, one Thiru.P.Palaniappan has filed a Original Application No.211 of 2021(SZ) before the Hon'ble National Green Tribunal, Southern Zone, Chennai with a prayer pleased to;

1.Direct the respondents 1 to 10 to take appropriate action against the respondents 11 to 15 for the illegal quarry/crusher operations done by them in gross violation to the conditions imposed in the relevant licenses, consent orders and clearances.

2.Direct the Respondents 1 to 10 to assess the damage caused by the respondents 11 to 15 to the environment more particularly in Masinaickenpettai Village and recover the compensation for the same from the respondent 11 to 15.

3.Direct the respondents 1 to 10 to cancel the licenses, consent orders and clearance granted in favour of the respondents 11 to 15.

4.Direct the respondents 11 to 15 to close down the quarry/crusher units on account of the serious environmental degradation caused by them.

5.and pass such further or other orders as this Hon'ble



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Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

iv) In this connection, the Hon'ble Tribunal has appointed a Joint Committee consisting of (1) a Senior Officer from the MoEF & CC, Integrated Regional Office, Chennai (2) a Senior Scientist from the Central Pollution Board, Integrated Regional Office, Chennai, (3) a Senior Officer from SEIAA, Chennai (4) District Environment Engineer of the concerned Tamil Nadu Pollution Control Board and (5) Assistant Director, Mining and Geology Department, Salem to inspect the unit in question and submit a factual as well as action taken report, if there is any violation found.

v) As directed by the Hon'ble Tribunal, the committee as appointed had jointly inspected the subject alleged areas and submitted their reports wherein evaluated the extent of illegal quarrying carried out by the respondents 11 to 15 in the lease hold area and adjoining Government Poramboke lands and also irregularities found in other aspects.

vi) Of the respondents 1 to 15 in the Original Application No.211 of 2021(SZ) filed before the Hon'ble National Green Tribunal, Respondent 13, namely, Sri.Vijayalakshmi Blue Metals of Masinaickenpatti Village, Valapady Taluk pertains to the writ petitioner herein.

Vii) From the Committee Report, it was ascertained that Thiru.Kasi Viswanathan H/o.Lakshmi Malliga, the Writ petitioner herein, had indulged in illegal quarrying operations in the lease expired rough stone quarry granted to him in Government



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Poramboke S.F.No.219 (P) over an extent of 2.00.0 hectares of Masinaickenpatti Village, Valapady Taluk, Salem District for a period of 10 years from 18.06.2009 to 17.06.2019 vide proceedings of the District Collector in Rc.No.76/20189/Mines-A dated 19.05.2009 and also in the adjoining Government Poramboke lands.

Viii) As of, a quantum of 86,899 cu.m. Of rough stone and 6111 cu.m. Of Top soil/Gravel excessively in the leased out area and a quantum of 35,626 cu.m of rough stone and 2019 cu.m. Of top soil/gravel in the adjoining Government Poramboke land.

ix) In this regard, a complaint was lodged against the respondent 13, i.e., writ petitioner's husband, Thiru.Kasi Viswanathan and FIR has been filed in Crime No.316/2022 dated 03.06.2022 in Ammapet Police Station. Further, a necessary proposal was sent to the Revenue Divisional Officer, Salem to take appropriate penal action against Thiru.Kasi Viswanathan (respondent 13).

x) The Revenue Divisional Officer, Salem has levied a penalty to a tune of Rs.2,13,57,595/- towards illegal removal of minerals in the alleged areas vide proceedings Rc.No.175/2022/A2 dated 23.01.2024. The Revenue Divisional Officer, Salem has also levied penalty to other respondents 11,12,14 and 15 on the proposal sent to him on the basis of the Joint Committee report appointed by the Hon'ble Tribunal. Among the penalty levied to the respondents, except the respondents 13 (writ petitioner's husband) and the respondent 14, other respondents remitted the penalty as levied.



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xi) In the above context, a detailed action taken report has been filed before the Hon'ble National Green Tribunal, Southern Zone, Chennai by the 8th respondent i.e., the Deputy Director of Geology and Mining, Salem.

Xii) In this aspect the Hon'ble National Green Tribunal has accepted the Status Report filed by the 8th respondent and passed the following orders in Original Application No.211 of 2021 (SZ) dated 23.02.2024;

...“6.So far as the 13th respondent is concerned, the penalty imposed on them is approximately Rs.2,00,00,000/- which is yet to be paid. Similarly, the 14th respondent was levied with a penalty of approximately Rs.10,00,00,000/- which is also yet to be recovered.

7.So, Wherever the penalty due is pending, the execution of lease deed should not be considered and further clearances for operation should not be granted.”.

Xiii) Since, the Hon'ble National Green Tribunal order is in force for compliance, the lease deed could not be executed with this Writ petitioner, as the Respondent 13 viz., Sri.Vijayalakshmi Blue Metals of Masinaickenpatti Village, Valapady Taluk in the said Original Application No.211 of 2021 (SZ) belongs to the writ petitioner.”

5. Mr.T.Sai Krishnan, learned Counsel for the petitioner would submit that the petitioner has applied separately. Therefore, her case cannot



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be linked with her husband.

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6. However, the learned Additional Government Pleader stated that both the husband and wife are doing the business jointly and illegal quarrying operations are done by the husband of the petitioner and criminal case has also been initiated as stated above.

7. When allegations relating to illegal minings are noticed, though against the husband of the writ petitioner, the Department is right in not executing the Lease Deed in favour of the petitioner. In such circumstances, pragmatic approach is required, when the husband of the petitioner has involved in large scale illegal mining operations and criminal cases are registered and huge amount of penalty has been imposed, which is yet to be recovered, wife cannot be granted lease for quarrying. Therefore, this Court do not find any merit in the present writ petition.



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8. Accordingly, this Writ Petition stands **dismissed** at the admission stage itself. No costs.

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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