



W.P.No.10



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10997 of 2020

and

W.M.P.No.13371 of 2020

Tmt.B.Thiraviam

... Petitioner

Vs.

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

2. The District Collector,
Madurai District, Madurai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records in proceedings dated 20.01.2020 bearing R.C.No.560/Mines/2010-2 on the file of the 2nd respondent District Collector, Madurai and quash the same.

For Petitioner : Mr.K.Sridhar

For Respondents : Mr.B.Vijay,

Additional Government Pleader
and Mr.G.Krishna Raja,
Additional Government Pleader

ORDER

The Writ Petition has been instituted questioning the validity of the order



dated 20.01.2020, imposing compensation for surface over Government poromboke lands.

2. The contention of the learned counsel for the petitioner, Mr.K.Sridhar would be that no show-cause notice has been issued to the petitioner and thus, the impugned order is in violation of the principles of natural justice. The petitioner is entitled to know the demand in advance, so as to defend their case. In the present case, no such notice was issued and therefore, the writ petition is to be allowed.

3. The learned Additional Government Pleader, Mr.Vijay would oppose the said contention by stating that compensation for surface rights over Government poromboke lands is a statutory obligation and a contractual obligation between the Government and the lessee. Therefore, the question of issuing a show-cause notice would not arise at all. In this context, the learned Additional Government Pleader would draw the attention of this Court with reference to the Form-K, Mining Lease (with reference to Rule 31). Clause 11D stipulates that *“The lessee shall pay compensation to the occupier of the land on the date and in the manner laid down in these rules.”*

4. Admittedly, the petitioner had signed the mining lease agreement in



Form K and therefore, it becomes a contractual obligation between the parties. Once the petitioner has admitted in Form K that she is liable to pay compensation and

Section 24(A)(2) of the MMRD Act denotes that *“the holder of a mineral concession referred to in sub-section (1) shall be liable to pay compensation in such manner as may be prescribed to the occupier of the surface of the land granted under such permit, licence or lease for any loss or damage which is likely to arise or has arisen from or in consequence of the reconnaissance, mining or prospecting operations”*, the petitioner is liable to pay.

5. The learned Additional Government Pleader would rely on Rule 72 of the Minor Concession Rules, which stipulates the payment of compensation to owner of surface rights etc., Therefore, Section 24(A) read with Rule 72 of the Minor Concession Rules would confer right to the authorities to recover compensation for surface rights over Government poromboke lands. In respect of Government poromboke lands, Government is the owner. Thus, the authorities competent is empowered to recover the compensation for surface rights over the Government poromboke lands.

6. The learned counsel for the petitioner, Mr.K.Sridhar would oppose by



stating that Rule 72 was repealed and therefore, relying on the said Rule, compensation cannot be recovered from the petitioner and more so, the quantum of compensation determined by the authorities were not communicated to the petitioner.

In this context, Rule 72 of the Minor Concession Rules was repealed at later point of time. As far as the lease period of the petitioner from 1994-99 is concerned, the Rule 72 of the Minor Concession Rules was in force. In respect of compensation to be determined for the lease period from 1994-99, the said Rule alone is to be applied for quantifying the compensation to be recovered from the lessee. Therefore, Rule 72 was adopted only for the purpose of determining the compensation for the lease period from 1994-99 and admittedly, the said Rule 72 of the Minor Concession Rule was revised in the year 2017.

7. The learned Additional Government Pleader states that the Rule was not repealed but revised by introducing “Minerals (other than atomic and hydrocarbon energy mineral) Concession Rules, 2016”. That being so, the ground raised by the petitioner is devoid of merits.

8. Rule 72 of erstwhile Mineral Concession Rules had been repealed and it has been restored as Rule 52 of the Minerals (other than atomic and hydrocarbon energy mineral) Concession Rules, 2016.



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9. The demand of surface right compensation pertains to the period 1994-99 and therefore, the authorities have applied Rule 72 of the erstwhile Mineral Concession Rules, which cannot be faulted. When the petitioner has signed Form K, wherein covenant 11-D would indicate that the petitioner is liable to pay compensation, question of issuing a show-cause notice would not arise at all. If at all any discrepancy is found while calculating the compensation, the petitioner is at liberty to approach the authorities for the purpose of rectification of error in calculation or otherwise. Therefore, this Court do not find any merit for the purpose of considering the relief, as such sought for in the present Writ Petition.

10. Accordingly, this Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes

Speaking order

Neutral Citation : Yes

To

1. The Principal Secretary to Government of Tamil Nadu,
Department of Industries,



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Fort St. George, Chennai – 600 009.

2. The District Collector,
Madurai District, Madurai.



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S.M.SUBRAMANIAM, J.

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