



W.P.No.24756 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.24756 of 2021

M/s.Annamar Granites,
Represented by its Proprietrix,
S.Suseela
413/296,Sakthi Road,
Erode.

.... Petitioner

Vs

1. The Principal Secretary to Government,
Industries Department,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai – 600 009.

2. The Director of Geology & Mining,
Guindy, Chennai – 600 032.

3. The District Collector,
Krishnagiri District.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in relating to G.O (D) No.98 Industries (MME-2) Department, dated 01.09.2020 confirming the orders of the second respondent passed in his proceedings ROC.No.3953/MM4/2019



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dated 19.08.2019 rejecting the second scheme of mining and quash the same with a consequential direction directing the second respondent herein to approve the second scheme of mining pertaining to the petitioner's quarry situate in Devaganappalli Village, Thenkanikottai Taluk, Krishnagiri District comprised in S.F.No.246 in an extent of 1.95.5 Hectares.

For Petitioner : Mr.K.M.Arun
for Mr.S.Senthil

For Respondents : Mr.E.Vijay Anand
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 01.09.2020, thereby confirming the order passed by the second respondent dated 19.08.2019, thereby rejected the request made by the petitioner for the second scheme of mining in the land situated in Devaganappalli Village, Thenkanikottai Taluk, Krishnagiri District comprised in S.F.No.246 in an extent of 1.95.5 Hectares.

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

3. The petitioner's husband had applied for grant of lease for



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quarrying black granites to an extent of 1.95.5 Hectares of Government Land comprised in S.R.No.246 situated at Devaganampalli Village, Thenkanikottai Taluk, Krishnagiri District for a period of 20 years under Rule 8A of Tamil Nadu Minor Mineral Concession Rules 1959 (hereinafter referred as “TNMMCR”). On receipt of such application, by G.O.(3D) No.55, Industries (E2) Department, dated 08.05.1998, a lease was granted. Accordingly, a lease deed was executed by the third respondent in favour of the petitioner's husband on 05.04.1999. In view of the Rule framed, a rule to obtain mining plan for the mining operations, he had obtained approval for mining plan from the second respondent for a period of five years, which expired on 02.08.2009. Thereafter, the petitioner's husband applied for first scheme of mining plan on 20.07.2009 for a period of five years from 2009-10 to 2013-14 under Rule 18(2) of the Granite Conservation and Development Rules 1999 (hereinafter referred as “GCDR”). However, the said request was not considered even till 90 days which is provided under Rule 18(4) of the GCDR. Therefore, it shall be deemed have to be approved as per the Rule 18(5) of the GCDR.

4. After expiry of the first scheme of mining plan, the



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petitioner's husband had applied for the second scheme for issuance of second scheme of mining plan for a further period of five years i.e., from 2014-15 to 2018-19 on 08.08.2014. The mining plan ought to have applied 120 days before the expiry of the earlier five year plan. However, there was no rule to condone such delay in making the application, the petitioner's husband applied belatedly. As per G.O (D) No.118 Industries (MMC1) Department, dated 15.06.2018, the petitioner has permitted the belated submission of scheme of mining plan by the existing lessees with condone delay petition filed along with the second scheme of mining application was allowed on payment of Rs.5,000/-. However, the period of mining plan expired and as such, the application submitted by the petitioner was rejected by the second respondent for approval of second scheme of mining plan by an order dated 19.08.2019. Aggrieved by the same, the petitioner preferred an appeal before the first respondent and the same was also dismissed.

5. The learned counsel appearing for the petitioner would submit that the second respondent failed to note that, Rule 8A(11) of the TNMMCR, 1959, prescribes for filing of application for renewal in a



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prescribed form with a non-refundable application fees of Rs.5,000/-.

The petitioner's husband's lease was deemed to be extended and therefore, the question of expiry of lease does not arise. Further as per the Amendment Act, all mining lease was granted for a period of fifty years.

6. A perusal of the counter filed by the first respondent and the submissions made by the learned Additional Government Pleader appearing for the respondents reveals that in order to dispose of the belated application for scheme of mining in respect of granite, the Government passed an order in G.O.(D) No.118, Industries (MMC-1) Department, dated 15.06.2018, condoning the delay in submission of scheme of mining as one time dispensation with collection of penalty of Rs.5,000/-. However, the Deputy Director (G & M), Krishnagiri, had forwarded the scheme of mining on 31.05.2019, i.e., after the expiry of the lease period (i.e., on 04.04.2019) stating the reason that the approved scheme of mining is a mandatory document as per Rule 8-A(11)(c) of the TNMMCR, 1959. It is relevant to extract the provision under Rule 8-A(11)(c) of TNMMCR, which is hereunder :

“The lessee shall submit an approved mining



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plan/scheme along with the application for renewal of lease valid at the time of filing the renewal application”.

7. Further, the lease expired and the expired lease cannot be dealt with by the legal heirs of the deceased lessee. Therefore, the claim of the petitioner as well as the appeal were rightly rejected. That apart, now the respondents are floating tender for mining lease. Subsequently, the petitioner had participated in the tender and she is also one of the successful bidder. Though, the learned counsel appearing for the petitioner contended that the petitioner's quarry was given deemed extension for a further period of thirty years from the date of expiry of the lease, it is not acceptable, since it relates to major minerals only. Section 14 of the Mines and Minerals (Development & Regulation) Act, 1957 says that Sections 5 to 13 of the Act are not applicable to minor minerals. Granite comes under the purview of minor mineral and hence, deemed extension does not arise in this case. The renewal of application for granite may be granted as per Rule 80A(11) of TNMMCR, 1959, subject to the satisfactory performance of the lessee in the past in fulfilling the conditions of lease, approved mining plan/scheme of mining



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along with the application and subject to the remittance of lease amount.

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8. In view of the above, this Court finds no infirmity or illegality in the order passed by the first respondent. Thus, the writ petition lacks merits and is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. No costs.

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

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Industries Department,
Government of Tamil Nadu,
Secretariat, Fort St.George, Chennai – 600 009.

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