



W.A(MD)No.1220 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.1220 of 2024
and
C.M.P.(MD)No.9313 of 2024**

1.The District Collector,
O/o. District Collector,
Theni District,
Theni.

2.The Assistant Director,
Department of Geology and Mining,
Theni District, Collectorate Campus,
Theni.

... Appellants / Respondents

-vs-

J.Senthil Kumar

... Respondent / Petitioner

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 19.03.2024 in W.P.(MD)No.29912 of 2023.

For Appellants : Mr.R.Baskaran,
Additional Advocate General,
Assisted by,
Mr.S.R.A.Ramachandran,
Additional Government Pleader

For Respondent : Mr.Sricharan Rengarajan,
Senior counsel,
For Mr.Ramsundar Vijayaraj



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JUDGMENT

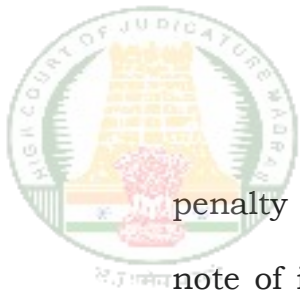
[Judgment of the Court was made by R.SUBRAMANIAN, J.]

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The prayer of the petitioner in the writ petition, seeking extension of lease for the period during which he was prevented from quarrying was granted by the learned single Judge on the ground that the writ petitioner was not responsible for not carrying out the quarrying operations during the said period. Hence, this appeal is by the state.

2. We have heard Mr.R.Baskaran, learned Additional Advocate General, assisted by, Mr.S.R.A.Ramachandran, learned Additional Government Pleader appearing for the state and Mr.Sricharan Rengarajan, learned Senior counsel, For Mr.Ramsundar Vijayaraj, learned counsel appearing for the writ petitioner.

3. The fact that the petitioner was prevented from quarrying for a period of 13 months and 19 days is admitted. But it is claimed that the prevention was due to the fact that the petitioner quarried in the non-lease area. As regards the quarrying in the non-lease area, separate proceedings were launched, the loss was assessed and the same was collected along with a penalty from the writ petitioner. Therefore, the loss due to quarrying in the non-leased area has been fully compensated. The explanation of the writ petitioner for quarrying in the non-leased area is that it was done by his servants without his knowledge and it was not deliberate. However, as per the provisions of the Minor Minerals Concession Rules, 1959, the



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penalty had been levied and the same has been paid. The writ Court took note of it and found that if the petitioner is not allowed to quarry for the lost period, it will amount to a double punishment.

4. Mr.Baskaran, learned Additional Advocate General on instructions would submit that since there is no rule which enables extension of quarrying operation, the single Judge ought not to have granted extension.

5. On the other hand, Mr.Sricharan Rangarajan, learned senior counsel appearing for the writ petitioner would contend that the learned single Judge has found that condition No.14(1) in the proceedings dated 05.02.2021 cannot be enforced and it was obtained under threat of suspending operations for the remaining period of the lease also. The writ Court also found that the question of grant of extension did not arise at the relevant point of time and it was wholly unnecessary for the Department to have obtained such an undertaking from the writ petitioner that he would not seek extension. Reliance is also placed on the Division Bench of this Court reported in **(2011) 4 MLJ 643** wherein under similar circumstances, the absence of a Rule providing for an extension was considered, and the portion of the judgment of the Division Bench extracted by the Writ Court supports the view of the Writ Court.



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6. We find that the Division Bench in turn had relied upon the judgment of the Hon'ble Supreme Court in **Beg Raj Singh .Vs. State of U.P. & Ors. (2003 (1) SCC 726)**. In the light of the above, we do not see any reason to interfere with the order of the learned single Judge. We are in complete agreement with the view of the learned single Judge that non extension would amount to double jeopardy, since the petitioner has already been punished for quarrying in non-leased area.

7. Hence, the writ appeal fails, and it is accordingly dismissed. It is needless to point out that the petitioner will get the other clearances as required under law. The extension will be for a period of 13 months and 9 days from the date on which the permission to quarry is granted. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

25.10.2024

NCC :Yes/No

Index :Yes/No

Internet: Yes

Sml

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