**(2006) 10 MAD CK 0119**

**In the Madras High Court**

**Case No :** Writ Petition No. 38673 of 2006 and M.P. No. 1 of 2006

India Magnesia Product Ltd. APPELLANT

Vs

The State of Tamilnadu RESPONDENT

**Date of Decision :** 26-10-2006

**Acts Referred:**
Mineral Concession Rules, 1960 — Rule 24A

**Citation :** (2006) 10 MAD CK 0119

**Hon'ble Judges :** K. Raviraja Pandian, J

**Bench :** Single Bench

**Advocate :** V. Sanjeevi, for the Appellant; R. Thirugnanam, SGP, for the Respondent

**Final Decision :** Dismissed

## Judgement

K. Ravnairaja Pandian, J.

Raviraja

1. Mr. R. Thirugnanam, learned Special Government Pleader takes notice. Heard both.

2. It is the case of the petitioner that originally, the Tamilnadu Government, by G.O.Ms. No. 488 Industries (D) Department dated 5.5.1986,

granted mining lease to M/s. Tamilnadu Magnesite Limited, Salem over an extent of 47 acres in S. No. 76/1 Kondappanaickenpatti Village, Salem

District for a period of twenty years. Subsequent to the grant of lease, on 8.8.1986, the lease deed came to be executed. Thereafter, on 5.7.1993

by G.O.2(D) No. 171 Industries (MMD.1) Department, the Government of Tamilnadu accorded consent for the transfer of mining lease granted

to M/s. Tamilnadu Magnesite Limited to the petitioner and as such, M/s. Tamilnadu Magnesite Limited transferred the lease in favour of the petitioner. The Government also approved such transfer for the remaining period upto 7.8.2006.

3. The petitioner was enjoying the lease and carrying on the quarrying operation by engaging more than 200 men and investing heavily on the

machinery. Twelve months prior to expiration of the lease period, i.e. on 22.7.2005, as required by provisions of the Mineral Concession Rules,

the petitioner made an application to the first respondent under Rule 24-A of the said Rules for renewal of mining lease. The request for renewal

was rejected by the first respondent by G.O.(D)No.68 Industries (MMD.1) Department dated 5.8.2006 on erroneous reasons.

4. As against the rejection order, the petitioner filed a statutory revision along with petition for stay before the Secretary to Government of India,

Ministry of Mines, New Delhi and the same is pending. The Central Government has also granted stay of operation of G.O(D). No. 68 Industries

(MMD.1) Department dated 5.8.2006 by an order dated 15.9.2006. When such being the position, according to the petitioner, in view of the stay

granted by the Central Government, the petitioner is entitled to carry on the quarrying operation. As the respondents are not permitting the

petitioner to carry on the quarrying operation, the petitioner has filed the writ petition.

5. I have heard the learned Counsel for the petitioner, who argued in line with the facts stated above.

6. Of course, it may be correct that the on a revision filed under the provisions of the said Rules, the Central Government stayed the operation of

rejection order on renewal application passed by the State Government. But, that does not mean that even after the expiry of period, for which,

lease was granted originally and transferred subsequently in favour of the petitioner upto 7.8.2006, the petitioner is entitled to quarry minerals from

the field. The order of stay granted by the Central Government shall not be interpreted in such a way that the petitioner can continue the quarrying

operation even after the expiry of lease. If the petitioner wants to continue the quarrying operation, they can very well move the Central

Government, before whom the revision petition is pending, to get an interim order permitting the petitioner to quarry the mineral pending disposal of

the revision petition filed against the order of rejection on renewal application by the State Government. Therefore, the order of stay granted by the

 

Central Government cannot be, ipso facto, regarded as a permission granted by the Central Government to continue the quarrying operation even

after the expiry of the lease period i.e. on and after 8.8.2006. The petitioner has not made out any case.

7. Hence, the writ petition is dismissed. No costs. Consequently, the above MP is also dismissed.