

(2014) 09 KAR CK 0293

In the Karnataka High Court

Case No : Writ Petition No. 32780 of 2013 [GM-MM-S]

Kannamma

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 10-09-2014

Acts Referred:

Mines and Minerals (Development and Regulation) Act, 1957 — Section 4A(3)

Citation : (2014) 4 AKR 720

Hon'ble Judges : D.H. Waghela, C.J;Ashok B. Hinchigeri, J

Bench : Division Bench

Advocate : D. Nagaraj, A.G.A, Sunil S. Rao, Advocate for T. Seshagiri Rao, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Ashok B. Hinchigeri, J.—The petitioner has called into question the 3rd respondent's order dated 20.08.2011 (Annexure-C) and the 2nd respondent's order dated 27.04.2013 (Annexure-D).

2. The facts of the case in brief are that the petitioner was holding the stone quarrying lease in respect of the land measuring 20 guntas in Sy. No. 100 of Bettahalasur Village, Jala Hobli, Bangalore North Taluk, for a period of five years commencing from 09.02.2007. On noticing certain violations of law and conditions of the lease, the 3rd respondent issued notice, dated 01.06.2011 (Annexure-B) to the petitioner as to why her quarrying lease should not be cancelled. Admittedly, the notice did not evoke any reply from the petitioner. The junior engineer held spot-inspection and found that the area in question falls within the forbidden radius of 200 meters from the public structures. Further, the spot-inspection, conducted by the technical officials, confirmed the use of explosives in carrying out quarrying operations. Therefore, the 3rd respondent cancelled the quarrying lease by its order, dated 20.08.2011 (Annexure-C). The said order was challenged by way of revision petition before the 2nd respondent. The 2nd respondent by its order, dated 27.04.2013 rejected the revision petition

by confirming the order of the 3rd respondent.

3. Sri Sunil Rao, learned counsel for the petitioner submits that the impugned orders are arbitrary. He complains of the 3rd respondent not complying with the mandatory requirements contained in Rule 6(3) of the Karnataka Minor Mineral Concession Rules, 1994, as no opportunity whatsoever is given by the 3rd respondent to the petitioner to remedy the alleged breaches. He also complains of non-compliance with the mandatory requirement contained in Section 4A(3) of the Mines and Minerals (Development and Regulation) Act, 1957, which prescribes that no order making a premature termination of a prospecting licence or mining lease shall be, made except after giving the holder of the licence or lease a reasonable opportunity of being heard.

4. Learned counsel submits that no royalty is due to be paid by the petitioner. He submits that the petitioner has not been using any explosives while doing the quarrying activity. He submits that the mining area does not fall within the forbidden radius. Learned counsel brings to our notice the Apex Court judgment in the case of Institute of Chartered Accountants of India Vs. L.K. Ratna and Others, for advancing the contention that post-decisional hearing opportunity be given as the matter suffers from the procedural difficulty of absence of pre-decisional hearing.

5. The submissions of learned counsel have received our thoughtful consideration.

6. Our perusal of the impugned orders shows that on account of the following factors, the lease is cancelled;

i) The area falls within the forbidden radius. It is just 2.1 kilometer from the air-base and 0.26 kilometer from Metro rail-works.

ii) Use of explosives may cause accidents to the aeroplanes at the time of their landing and take-off. The stone-pieces and dust caused by heavy blasting may hit the aeroplanes.

iii) As a result of transportation of large quantity of building stones and boulders, huge pits are created.

iv) The petitioner has not cleared the royalty dues.

7. The aforesaid factors have weighed with the respondent Nos. 2 and 3 in passing the impugned orders. We are not persuaded to accept the submission urged on behalf of the petitioner that she ought to have been given an opportunity to remedy the breaches. Because, the petitioner has not even cared to reply to the notice dated, 01.06.2011 issued by the 3rd respondent.

8. The revisional authority (respondent No. 2), as is evident from its order, has given reasonable opportunities of hearing to the petitioner. The perusal of the impugned order discloses that the matter was also adjourned a number of times at the request of learned counsel for the petitioner. The allegation of violation of the principles of natural justice has no substance.

9. It is also worthwhile to notice that the original lease period itself has expired on 09.02.2012.

10. Considering all these aspects of the matter, we dismiss this petition with no order as to costs.