

(2011) 02 KAR CK 0146
In the Karnataka High Court
Case No : Writ Petition No. 22415 of 2009

Renuka Lakshmi Granites

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 15-02-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11
Karnataka Minor Mineral Concession Rules, 1994 — Rule 11 (4)

Citation : (2011) 02 KAR CK 0146

Hon'ble Judges : J.S. Khehar, C.J.;A.S. Bopanna, J

Bench : Division Bench

Advocate : H.M. Manjunatha and Nityanand V. Nayak, for the Appellant;
Basavaraj Kareddy, Prl. G.A. for Respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

J.S. Khehar, C.J.—By a notification dated 22.3.2005 (Annexure-FC), issued in exercise of the authority vested in the State Government under Rule 11(4) of the Karnataka Minor Mineral Concession Rules, 1994, sanction was granted for renewal of a quarrying lease for quarrying Grey Granite for a period of 10 years from the date of expiry of the previous lease, i.e.. with effect from 12.6.2001, to Sri K.M. Rajashekaramurthy (Respondent No. 5 herein), over an extent of 4 acres of Government land in Survey No. 14/P of Malleharavu Village, Molakalmuru Taluk. Chitradurga District.

2. A perusal of the impugned notification dated 22.3.2005 reveals, that the renewal of quarrying lease granted to Respondent No. 5 was for a tenure of 10 years (with effect from 12.6.2001) which would expire on 11.6.2011.

3. Insofar as the delay in filing the instant writ petition to assail the notification dated 22.3.2005 (Annexure-FC) is concerned, learned Counsel for the Petitioner has invited our attention to the factual position depicted in paragraphs 86 and 88 of the writ petition. The aforesaid paragraphs are being extracted hereunder:

86. Pursuant, to the order dated 05.02.2008, granted by this Honorable Court in MFA No. 6734/2003, the O.S. No. 7762/2000 was posted for hearing on I.A. No. II and IV. The 5th Respondent tiled an application under order number VII Rule 11 of the CPC to reject the plaint and contended that the Quarry Lease No. 182 had been expired and a new Quarry Lease No. 704 has been granted in his favour. A copy of the application filed under Order VII Rule 11 of CPC is herewith produced and marked as Annexure-EN.

The Petitioner has filed objections to this Interim Application and copy of the objections to I.A. No. 7, in Original Suit No. 7762/2000 is herewith produced and marked as Annexure-EP. The Petitioner has filed written arguments to this Interim Application and copy of the written arguments to the I.A. No. 7, in O.S. No. 7762/2000 is herewith produced and marked as Annexure-EQ.

88. The 5th Respondent put his efforts to mislead the Trial Court by contending that, the impugned Notification at Annexure-FC, as if the fresh quarry lease. The 5th Respondent enclosed a copy of the impugned Notification along with his application in O.S. No. 7762/2000. Then and there only, the Petitioner came to know about the impugned Notification, which was contrary to the settled Principles of Law and provisions of KMMC Rules-1994. In these circumstances, there is no intentional delay in approaching this Honorable Court. From the date of knowledge about, the impugned Notification, the Petitioner immediately approached this Hon'ble Court. Fraud vitiates everything.

4. Having given our thoughtful consideration to the submissions advanced at the hands of the learned Counsel for the Petitioner, we are satisfied, that it is inappropriate to exercise our jurisdiction under Article 226 of the Constitution of India, so as to entertain the prayer made by the Petitioner in the instant writ petition to impugn the notification dated 22.3.2005 (Annexure-FC). According to the Petitioner, the aforesaid notification came to her notice, as far back as on 5.2.2008. Despite the fact, that the instant writ petition came to be filed in the Registry of this Court on 31.7.2009, objections raised by the Registry were not removed for over 11/2 years. As of now, out of the 10 years" of lease period granted to Respondent No. 5, only about 4 months remain. We are satisfied, that it would be of a wholly futile exercise to entertain the instant writ petition, at this belated juncture.

5. In view of the above, the instant writ petition is dismissed for reasons of delay and laches.