
(1999) 01 MAD CK 0030

In the Madras High Court

Case No : W.A. No. 28 and C.M.P. No. 136 of 1999

S. Ganapathy

APPELLANT

Vs

State of Tamil Nadu and Another

RESPONDENT

Date of Decision : 08-01-1999

Acts Referred:

Mines and Minerals (Development and Regulation) Act, 1957 — Section 7

Citation : AIR 1999 Mad 252

Hon'ble Judges : Shivaraj Patil, Acting C.J.;K.P. Sivasubramaniam, J

Bench : Division Bench

Advocate : M. Vijaykumar, for M. Jothi Basu, for the Appellant; D. Murugesan, Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Shivaraj Patil, Actg. C.J.

1. Heard the learned Counsel for the parties. The writ petitioner in W.P. 15863/98 is the appellant before us as the said writ petition was

dismissed by the order of the learned single Judge on 24-12-1998. The learned Counsel for the appellant strongly contended that the appellant

was not permitted to carry on the quarrying operations in spite of lease granted to him as there were always disturbances. Under the

circumstances, the learned single Judge ought to have granted the relief sought for exceeding the period of lease for 3 years to carry on the sand

quarry in R.S. No. 135/1 over an extent of 5.00.0 hectares in Kilinjikuppam Part II, Cuddalore.

2. The learned single Judge having considered the submissions made by the learned Counsel for the petitioner dismissed the writ petition. In

paragraph 5 of the said order of the learned single Judge, it is stated thus :--

5. Before the Bench it was contended on behalf of the petitioner that the lease was not allowed to be worked by the local residents. It had to be extended for another three years including, the period of disturbance. The Bench observed that once the possession had been given to the petitioner pursuant to the lease deed executed, it was for him to protect his possessory title or interest under the lease in accordance with law and the State could not be held guilty or liable for any loss caused by third persons. The learned Government Pleader pointed out that the appellant did carry on quarrying operations for some time; he has even paid the lease amount for two years; once the possession was handed over to the appellant it was for the appellant to protect his possession during the lease period and not for the State Government to protect his possession; if the appellant's possession was disturbed, it was open to him to take appropriate course in accordance with law to protect his possession during the lease period. He also pointed out that this position of law is made clear in Writ Appeal No. 491 of 1998 disposed of on 21-7-1998. That is what has been referred to by the learned single Judge in the impugned order. The learned Government Pleader also submitted that there is no provision for extending the lease period after the lease period once granted had expired. At this stage the learned Counsel for the appellant contended that the representation made by the appellant ought to have been considered by the authorities in the light of the observation made by the Division Bench of this Court in the said Writ Appeal No. 491/98. He submitted that in the impugned Order No. C/G & M/401/98, dated 21-9-1998 before the learned single Judge in the writ petition, the respondents have taken a stand that no representation was pending; it was not open to the respondent to say so having regard to the order made by the Division Bench of this Court in Writ Appeal No. 491/98.

3. We have considered the submissions made by the learned Counsel for the parties. The learned single Judge in the order under appeal in paragraphs 4 ad 5 has considered both the contentions urged on behalf of the appellant. The learned single Judge has pointed out that the representation, if any, made only could be considered by the authorities. From the facts stated above, it cannot be disputed that the appellant was put in possession of the land in question. May be he was not able to carry on the

quarrying operation for a full period because of disturbances. But that is a question of fact. That apart, in the light of the judgment of the Division Bench of this Court aforementioned, it is not open to the appellant to contend otherwise now to say that the lease period must be extended on the ground that because of disturbances he was not allowed to carry on the quarrying operations. As regards the representation, the learned single Judge as of fact found that such representation was not made, and the impugned order in the writ petition could not be interfered with. The learned Counsel for the appellant persuades us to say that at least if representation is made now that could be considered on merits and in accordance with law. While asserting that such representation was made, it is stated that there was a report of the Tahsildar on that account. In view of these submissions, there appears to be a controversy as to whether the representation was made by the appellant. We think it is not necessary to go into the matter further in this regard. We do not find any good or valid ground to interfere with the order of the learned single Judge. Hence, we dismiss the Writ Appeal. However, we permit the appellant to make a fresh representation now to the respondents and in the event any such representation is made, the authorities shall consider the same and dispose it off in accordance with law within 8 weeks from the date of making representation. As regards the Tahsildar's report on which the appellant relies, it is open to him to place a copy of the said report before the Authorities along with the representation. Consequently C.M.P. No. 136 of 1999 is also dismissed. No costs.