

(1995) 01 MAD CK 0026
In the Madras High Court

The Collector of Kamarajar District

APPELLANT

Vs

C. Kulandaivelu and Others

RESPONDENT

Date of Decision : 20-01-1995

Acts Referred:

Citation : (1995) 1 MLJ 633

Hon'ble Judges : K.A. Swami, C.J

Bench : Single Bench

Judgement

K.A. Swami, C.J.—These appeals are preferred against the common order dated 9.2.1994 passed by the learned single Judge in W.P.

Nos. 8127, 8129, 8131 and 8133 of 1992. In these writ petitions, the petitioners sought for quashing the orders passed by the Collector of the

District, rejecting the applications filed for renewal, of the leases on the ground that the applications were filed beyond the period permitted for

making such an application for renewal and that the second renewal was not permissible. Learned single Judge has found that the applications, for

renewal were filed in time. That it is so is not disputed before us. The second reason given by the Collector that Rule 9 of the Tamil Nadu Minor

Mineral Concession Rules, 1959 (hereinafter referred to as "the Rules"), as it stood prior to the amendment, did not provide for second renewal.

Rule 9(1) as it stood prior to the amendment, was as follows

9. Renewal of lease: (1) Subject to the provisions of Clause (b) of Sub-rule (1) of Rule 8, the Collector may on application renew a lease for a

further period not exceeding the period for which the lease was originally granted, if he is satisfied that;

(i) such renewal is in the interest of mineral development; and

(ii) the lease amount is reasonable in the case of leases originally obtained through public auction.

It is the contention of the learned Additional Government Pleader that Rule 9(1), as it stood at the relevant point of time, did not provide for

second renewal. We find it difficult to read the said rule, in the manner the learned Additional Government Pleader wants us to read. There is no

such embargo found in the said rule. What the said rule says is that renewal should be for a further period not exceeding the period for which the

lease was originally granted. It only means that if renewal were to be granted it should not be for a period more than three years. There is no

embargo as to the number of renewals to be granted. Therefore, it is not possible to agree with the reasoning of the Collector that Rule 9(1), as it

stood at the relevant point of time, did not empower second renewal.

2. Learned single Judge, after coming to the conclusion that the applications for renewal of lease were in time and Rule 9(1) as it stood at the

relevant point of time, did not prohibit second renewal, ought to have remitted the applications for renewal for consideration in accordance with

Rule 9(1). But the learned single Judge has allowed those applications on the ground that as no other reasons were given by the Collector for

rejecting the applications for renewal of leases, it was not at all necessary to remit the same. We find it difficult to agree with the learned single

Judge. Rule 9(1)(i) and (ii) as extracted above clearly provide that renewal can be granted only if it is found that such renewal is in the interest of

mineral development and that the lease amount is reasonable in the case of leases originally obtained through public auction. In the instant case, the

leases in question were originally obtained through public auction. Therefore, these two aspects are required to be decided by the Collector before

deciding as to whether the renewal should be granted or not. There was no material placed before the learned single Judge to record a finding that

the renewal of the leases in question was in the interest of mineral development and that the lease amounts were reasonable. That being so, we are

of the view that the applications for renewal of leases in question ought to have been remitted to the Collector.

3. The next question for consideration is as to whether in the facts and circumstances of the case, as the Rule 9(1) stands deleted as on today, is it

necessary to remit the applications for renewal of leases in question? Rule 9 has been deleted by G.O.Ms. No. 166, dated 16.6.1994.

Consequently, there is no question of renewing of leases of the nature in questions. Leases are to be granted only by way of inviting tenders. This

aspect of the matter, we have considered in detail in W.P. No. 11551 of 1994 and connected writ petitions by order dated 23.12.1994. The

relevant portion of the judgment is as follows:

In view of our findings on points 1 to 9 we declare that the amendments introduced to the Rules by the impugned G.O. are valid and they are not

liable to be quashed. In view of our finding on point No. 6 the petitioners are not entitled to have the applications pending before the Collectors

either for grant of quarry leases or for renewal of the quarry leases dealt with and disposed of under the old rules as they are no longer in force.

We cannot direct the District Collectors to dispose of the pending applications for renewal of the quarry leases under old Rule 9, because the said

rule has been deleted by the impugned G.O. and the same is no longer in force. Again, the applications for the grant of quarry leases made under

the old rules also cannot be considered in view of the fact that the amended Rule 8 contemplates the grant of quarry leases by calling for tenders in

the place of Public auction provided under the unamended Rule 8. Therefore, the prayer of the petitioners for the grant of quarry leases under old

Rule 8 by way of public auction also cannot be granted. The District Collectors can grant quarry leases after the G.O.Ms. No. 166 came into

force on 22.6.1994 only in the manner provided under the amended Rule 8, i.e. by calling for tenders. In these circumstances the petitioners herein

are not entitled to any relief in this batch of writ petitions and accordingly they are dismissed.

4. For the reasons stated above, these writ appeals (W.A. Nos. 881 to 884 of 1994) are allowed. The impugned order dated 9.2.1994 passed in

the Writ Petition Nos. 8127, 8129, 8131 and 8133 of 1992 is set aside and the writ petitions are dismissed. However, in the facts and

circumstances of the case, there will be no order as to costs.

5. In view of the disposal of the writ appeals, no orders are necessary in the connected C.M.Ps. and, accordingly C.M.P. Nos. 10254 to 10257

of 1994 are dismissed.