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Mallelil Industries Private Ltd vs the Director

Mallelil Industries Private Ltd vs the Director

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Court : Kerala

Decided On : Apr-23-2024

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/16415/2024

Appellant : Mallelil Industries Private Ltd

Respondent : The Director

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 WP(C) NO. 16415 OF 2024 PETITIONER: MALLELIL INDUSTRIES PRIVATE LTD ATTACHAKAL.P.O, KONNI, PATHANAMTHITTA DISTRICT, KERALA REPRESENTED BY ITS MANAGING DIRECTOR, SREEDHARAN NAIR, S/O.RAGHAVAN PILLAI, AGED 75 YEARS, MALLELIL HOUSE, ATTACHAKAL.P.O, KONNI, PATHANAMTHITTA DISTRICT, KERALA, PIN - 689692. BY ADV JOBI JOSE KONDODY RESPONDENTS: 1 THE DIRECTOR DIRECTORATE OF MINING AND GEOLOGY, PATTOM PALACE.P.O, KESAVADASAPURAM, THIRUVANANTHAPURAM, PIN - 695004. 2 THE GEOLOGIST MINING

AND GEOLOGY DISTRICT OFFICE NEAR KENDRIYA VIDYALAYA, ADOOR P. O. PATHANAMTHITTA DISTRICT, PIN - 691523. BY ADV.SMT. DEEPA V, GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.04.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :2:

JUDGMENT

Dated this the 23rd day of April, 2024 The petitioner is a Private Limited Company represented by its Managing Director. The petitioner- Company is conducting quarrying operations for mining building stones and crushing the same to various aggregates of building stones in the crusher unit belonging to the Company.

2. The petitioner company in order to start a quarry for mining building stones in 3 hectares of land comprised in Survey Nos. 275/1-50-3, 275/1-50-4, 275/1-50-5, 275/1-50-2, Konni Panchayat in Konni Taluk of Pathanamthitta District, :3:

had approached the 2nd respondent in the year 2015 for obtaining a quarrying lease under the provisions of the Kerala Minor Mineral Concession Rules,1967. But, during the consideration of the quarrying lease application submitted by the petitioner, the Kerala Minor Mineral Concession Rules, 1967 was superseded by the Kerala Minor Mineral Concession Rules, 2015 on 07.02.2015.

3. Environmental Clearance was made mandatory for all mineral concessions even for area less than 5

hectares. Therefore, the petitioner obtained Ext.P3 Environmental Clearance from the Mo EF & CC which was the authority to grant Environmental Clearance at that time after carrying out studies through the State Environmental Impact Assessment Authority. Though, Ext.P3 Environmental Clearance was obtained, the petitioner did not obtain a quarrying lease at that point of time.

:4:

4. When the petitioner now tried to proceed on

Exts.Pl and P2, the quarrying operations in assigned land became impermissible in the light of the dictum of this Court in Raphy John v. Land Revenue Commissioner [2022 (3) KLT 679]. The petitioner had 9.5 Ares of assigned land in Exts.Pl and P2 which had to be excluded for obtaining quarrying lease.

5. The petitioner made an application for removing

the same as per Ext.P10 after the amendment brought out to the Kerala Minor Mineral Concession Rules, 2015, on 31.03.2023. When an application is made for obtaining quarrying lease, all mining pits in the applied area had to be closed by remitting the royalty, price and fine for already mined out minerals from the mined pits. The Government had issued Ext.P8 Government Order for realizing the royalty from the mined out pits. The petitioner in Ext.P10

:5: representation had sought the benefit of Ext.P8 Government

Order which has not been considered so far, contends the

Counsel for the petitioner.

6. The petitioner has submitted Ext.P10

representation stating that the fine for the already excavated mined pit be realised in the light of Ext.P8 Government Order. In the facts of the case, it would be only just and proper that the 2nd respondent considers the request. The writ petition is disposed of directing the 2 nd respondent-Geologist to consider Ext.P10 representation submitted by the petitioner in the light of the judgment in Raphy John v. Land Revenue Commissioner (supra) and Ext.P8 Government Order.

Sd/- N. NAGARESH JUDGE ams :6: APPENDIX OF WP(C) 16415/2024 PETITIONER'S EXHIBITS Exhibit P1 A TRUE COPY OF THE LETTER OF INTENT DATED 17.01.2015 ISSUED BY THE 2 ND RESPONDENT TO Exhibit P2 A TRUE COPY OF THE CERTIFICATE DATED 21.01.2015 ISSUED BY THE 2 ND RESPONDENT TO Exhibit P3 A TRUE COPY OF THE ENVIRONMENTAL CLEARANCE DATED 12.03.2015 ISSUED BY THE MOEF & CC TO Exhibit P4 A TRUE COPY OF THE RELEVANT PAGES OF THE MINING PLAN Exhibit P5 A

TRUE COPY OF THE CERTIFICATE DATED 27.03.2024 ISSUED BY THE VILLAGE OFFICER, IRAVON TO THE TAHSILDAR KONNI Exhibit P6 A TRUE COPY OF THE DEMARCATION CERTIFICATE DATED 05.04.2024 ISSUED BY THE TAHSILDAR, KONNI TO THE PETITIONER Exhibit P 7 A TRUE COPY OF THE TECHNICAL PRESENTATION

SUBMITTED BY THE PETITIONER COMPANY BEFORE THE STATE EXPERT APPRAISAL COMMITTEE FOR PRODUCING IT BEFORE THE MOEF & CC DATED 09.09.2013 Exhibit P8 A TRUE COPY OF THE G.O. NO. 61/2023 ID DATED 25.08.2023 Exhibit P9 A TRUE COPY OF THE SURVEY SKETCH DATED 02.04.2024 PREPARED BY THE TALUK SURVEYOR, KONNI COUNTERSIGNED BY THE TAHSILDAR, KONNI Exhibit P10 A TRUE COPY OF THE REPRESENTATION DATED 09.04.2024

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