

Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 132 of 2023

Date of Decision: 18.05.2023

Shri Albert Steven Diengdoh

Vs.

Union of India & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. N. Khera, Adv. with
Ms. S. Syiem, Adv.

For the Respondent(s) : Dr. N. Mozika, DSG with
Ms. S. Rumthao, Adv. (For R 1-3)
Mr. A. Kumar, AG with
Mr. A.H. Kharwanlang, Add. Sr. GA
Ms. A. Thungwa, GA (For R 4-8 & 10)

i) Whether approved for reporting in Law journals etc: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER (ORAL)

1. Heard Mr. N. Khera, learned counsel for the petitioner.
Also heard Mr. A. Kumar, learned AG assisted by Mr. A.H.
Kharwanlang, learned Sr. GA for the respondents Nos. 4 to 8 and 10.

Dr. N. Mozika, learned DSG assisted by Ms. S. Rumthao, learned counsel is present on behalf of the respondents Nos. 1 to 3

2. The grievance of the writ petitioner who has come before this Court by way of the instant writ petition, is that the permission for grant of mining license lease has been processed in favour of the Respondent No. 11, in spite of his protest with regard to the location of a portion of the proposed area, which he contends he is in possession of by way of lease and which overlaps his leasehold land. The prayer made out in the writ petition therefore, is for cancellation of the Lease Deed dated 16.06.2020, executed and registered at the office of the Sub-Registrar, South West Khasi Hills, Mawkyrwat, between the Hahshah clan and the respondent No. 11.

3. It is submitted by Mr. N. Khara, learned counsel for the petitioner that the lease in question is subsequent to the lease, which the writ petitioner had entered into with the same clan which was executed in 2014. He submits that in view of this fact, the subsequent lease is liable to be cancelled and the Government authorities are liable to be directed to reject the application for mining permission for grant of lease to the respondent No. 11, in the area which is under dispute.

4. Mr. A. Kumar, learned AG assisted by Mr. A.H. Kharwanlang, learned Sr. GA for the respondents Nos. 4 to 8 and 10,

has raised objections with regard the maintainability of the instant writ petition firstly, as the same involves disputed question of facts, and that alternate and efficacious remedy is available in the form of a civil suit, for cancellation of such instruments. He further submits that Registration Act, 1960 does not provide for such cancellation but the same has to be gone into under the Specific Relief Act.

5. Heard the learned counsels for the parties and considered the materials on record. It is correct that the prayer as made out in the writ petition is prima facie unsustainable, inasmuch as, the same seeks cancellation of a registered lease, wherein alternate remedy exists for the petitioner to seek relief in the form of a civil suit. However, notwithstanding the legal position of the case, looking into the foundational facts as to why the writ petitioner has come before this Court, it is seen that it also relates to the alleged arbitrary action of the respondents in processing the permission for grant of license lease to the respondent No. 11 in spite of the objections of the writ petitioner. It is further noted that by letter dated 25.04.2022 (Annexure-19 to the writ petition), the process for grant of mining lease to the respondent No. 11, whose name appears at Sl. No. 2, appears to have been processed.

6. Mr. N. Khera, learned counsel for the petitioner at this stage, submits that the writ petitioner will approach the Civil Court

within a period of 2(two) weeks from today, to seek appropriate remedy, but however prays for some protection in the interim.

7. In this view of the matter, this writ petition is disposed of giving liberty to the writ petitioner to seek alternate remedy before the Civil Court, however with the direction that status quo shall be maintained by the respondent authorities, with regard to the process for grant of permissions to the respondent No. 11 for the next 3(three) weeks, from the date of this order to enable the writ petitioner to seek such proper and appropriate remedy.

8. It is made clear that this Court has not entered into the merits or claims of the respective parties and any observation made herein shall not be taken into consideration by the competent Civil Court while dealing with the matter.

9. With the above noted directions, this writ petition stands closed and is accordingly disposed of.

JUDGE

Meghalaya
18.05.2023
"V. Lyndem-PS"