

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Review No.494 of 2016**

**Arising out of**

**Civil Writ Jurisdiction Case No. 9908 of 2016**

- =====
1. M/s Mahadev Enclave Pvt. Ltd. having its office at B-37 Ayodhya Marg, Hanuman Nagar, Jaipur (Rajasthan) through its authorized representative, Dalip Singh, S/o Sh. Ram Singh, R/o VPO-Deenwa Ladkhani, Distt- Sikar (Rajasthan)
  2. Mr. Kartik Rathi, S/o- Sh. Ajay Rathi, R/o- 3-B 22 23 Sukhadia Nagar, Sri Ganganagar (Rajasthan), Director of M/s. Mahadev Enclave Pvt. Ltd. having its office at B-37 Ayodhya Marg, Hanuman Nagar, Jaipur (Rajasthan)

.... .... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Cum Commissioner, Department of Mines & Geology, Govt. of Bihar, Patna.
3. The District Magistrate Cum Collector, Banka.
4. The Deputy Commissioner of Commercial Taxes, Bhagalpur Commercial Taxes Circle, Banka.
5. The Mines Inspector, Banka.
6. Union of India through the Secretary, Ministry of Mines, Shastri Bhawan, New Delhi.

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Alok Sangwan, Advocate.

Mr. Gautam Kejriwal, Advocate.

For the Respondent/s : Mr. Rajendra Prasad, Spl. P.P., Mines.

Mr. Anshuman Singh, C.G.C.

=====

**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE**

**and**

**HONOURABLE DR. JUSTICE RAVI RANJAN**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE ACTING CHIEF JUSTICE)**

**Date: 16-11-2016**

Heard learned counsel for the parties.

2. The petitioners have filed the present Review Petition asserting that there is error apparent on record as the action of the State Government to fix sale price of minor mineral has been set aside but the power to fix sale price is derived from Rule 48(1)(A) of the Bihar Minor Mineral Concession Rules, 1972 (hereinafter referred

to as “the Rules”) but there is no reference to Rule 48 read with Rule 48(1)(A) of the Rules in Paragraph 16 of the order declaring such rule as *ultra vires*. It is said to be an inadvertent omission.

3. We have heard learned counsel for the parties and find that there is no error apparent on record.

4. Though the question was framed as to whether Rule 48(1)(A) of the Rules is *ultra vires* Section 15 of the Act, (paragraph 9 of the order) but there is no discussion on such question framed. In the absence of any discussion, it cannot be said that such Rule was held to be *ultra vires* when there is no discussion in respect of the validity of such Rule nor any finding in respect of legality of such Rule.

5. In view thereof, we do not find any error apparent on the record which may warrant interference in the Review Petition.

6. The Review Petition is, thus, dismissed.

**(Hemant Gupta, ACJ)**

**(Dr. Ravi Ranjan, J)**

P.K.P.

|                   |             |
|-------------------|-------------|
| AFR/NAFR          | A.F.R.      |
| CAV DATE          | N.A.        |
| Uploading Date    | 19.11.2016. |
| Transmission Date |             |