

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1937 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 3029 of 2014**

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Dhananjay Singh, son of Shri Ram Bhaju Singh, Resident of village + P.O. + P.S.-
Nasriganj of District- Rohtas (Sasaram)

.... Appellant/s

Versus

1. The State of Bihar
2. The Mines Commissioner, Government of Bihar, Patna
3. The Deputy Secretary, Mines and Mineral Department, Bihar, Patna
4. The Deputy Director, Mines, Magadh Circle Gaya, District- Gaya
5. The District Magistrate-cum-Collector, Aurangabad, District- Aurangabad
6. The Assistant Mines Officer Aurangabad, District- Aurangabad
7. The Certificate Officer, Mining Magadh Circle Gaya, District- Gaya
8. The Assistant Director-cum-Adhiyachana Padadhikari, Aurangabad, District- Aurangabad

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate.

For the For the State : Mr. Devendra Kumar Sinha- AAG2

For the Mines : Mr. Rajendra , Spl. PP. Mines.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 07-04-2016

The challenge in the present Letters Patent Appeal is to an order dated 13th of January, 2015 passed by the learned single Bench whereby the writ application filed by the appellant disputing the orders passed by the District Magistrate and the Mines Commissioner were not interfered with.

The appellant was given works order of mining on 22nd February, 2007 for the mining period 01.01.2007 to 31.12 2007. The settlement was cancelled prematurely on 3rd of December, 2007.



In CWJC No. 16165 of 2009 preferred by the appellant, it was ordered that the appellant would be entitled to rebate of 28 days i.e., from 04.12.2007 till 31.12.2007. The dispute is that how the per day charges has to be calculated i.e., for the complete financial year i.e., 01.01.2007 to 31.12.2007 or from the date of issuance of the work order i.e., 22.02.2007 till 31.12.2007. This will change the per day charges payable by the appellant and consequently, rebate allowable to the appellant.

The Certificate Officer found that the appellant has worked for 285 days and thus, per day licence fee is Rs. 5945.06 i.e., after calculating the settlement period from 01.01.2007 till 31.12.2007 and thereupon he granted rebate to the appellant. However, the District Magistrate ordered that since the work order was issued on 22.02.2007, therefore, the appellant is liable to pay entire settlement amount for the period from 22.02.2007 till 31.12.2007 and thus, the rebate will be allowable after taking into consideration the licence period as 313 days. Such order of the District Magistrate has been affirmed by the Mining Commissioner.

We find that the view of the District Magistrate as affirmed by the Mining Commissioner is a possible view of interpretation of the terms of the contract. Merely because another view is possible it will not confer jurisdiction on this Court to take a

different view more so when even the learned Single Judge has agreed with the view taken by the District Magistrate and affirmed by the Mines Commissioner.

We do not find any error in the order of the learned single Bench which may warrant interference in the present intra-court appeal.

The appeal thus stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/P.Kumar

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