

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23570 of 2018

=====

Eklavya Stone & Mines Pvt. Ltd. - through its Authorized Representative Sri Binay Kumar Ranjan, son of Late Kali Charan Roy, resident of Village-Pathara English, P.O. Odhanpur, P.S. Mufasil, District- Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar – through the Principal Secretary, Mines & Geology, Department of Mines, Government of Bihar, Patna.
2. Commissioner-cum-Principal Secretary, Mines & Geology, Government of Bihar, Patna.
3. Additional Secretary, Mines & Geology, Government of Bihar, Patna.
4. Collector-cum-District Magistrate, Nawada, District – Nawada.
5. Assistant Director (Mines), At, P.O. & P.S. Nawada, District- Nawada.
6. Inspector of Mines, At, P.O. & P.S. Nawada, District – Nawada.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Umesh Prasad Singh, Sr. Advocate with Mr. Abhimanyu Vatsa and Mr. Neeraj Kumar, Advocates
For the State	:	Mr. Gyan Prakash Ojha, GA 7
For the Spl. P.P. Mines	:	Mr. Naresh Dikshit, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-12-2018

Heard Mr. Umesh Prasad Singh, learned senior counsel, along with Mr. Abhimanyu Vatsa and Mr. Neeraj Kumar, learned counsel for the petitioner; learned counsel for the State and learned Special P.P., Mines and Geology Department, Government of Bihar.

2. The petitioner has moved the Court for the following reliefs:

“(i) To issue a Rule NISI in the nature of a writ of certiorari to quash and cancel the Notice Inviting E-AUCTION limited to Item/Serial No. 2, Village-Khakhandua, Circle Govindpur, Khata no. 85, plot no.



01(P), Block no. 'B', measuring 16 acres bounded – North : Plot no. 01(P) further forest area; South: Block no. 01(P) proposed Road; East : Plot no. 01(P) further forest area; West : Plot no. 01(P) in front Block – A of which reserved jama is Rs. 26,82,84,880/- and security amount 10%, i.e., Rs. 2,68,28,490/- in respect of which the Tender need to be submitted before 11.00 AM on 29.11.2018 and the Technical Bid to be opened on 7.12.2018, whereas the process of auction will start at 2.30 PM on 10th December, 2018 and shall continue till 5.30 PM, issued under the signature of respondent no. 3;

(ii) To issue a writ of mandamus commanding the respondents not to auction sale and take any other action in respect of the aforementioned land until final decision of the writ application and/or until final compliance of the order and direction as given by this Hon'ble Court by its judgment dated 19.11.2016 passed in C.W.J.C. No. 19005/2013;

(iii) To issue a writ of mandamus commanding the respondents to allow the petitioner to work the mines and to do all or any of the act including right to remove the boulder / stone extracted and lying at site as authorized under the Deed of Mining Lease or mining minor mineral dated 22/ 24th October, 2008 which the petitioner had not been allowed to work on and from 6.08.2012 and even after the judgment and order dated 19th November, 2016 passed by this Hon'ble Court in C.W.J.C. No. 19005/2013 the petitioner was neither allowed to do mining operation nor the respondent no. 4 has complied with the direction given by this Hon'ble Court;

(iv) To issue other appropriate writ/writs, order/orders direction/directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

3. The petitioner-Company was granted mining lease for quarrying of stone chips in land situated at village-Khakhandua,



P.S. and Circle-Govindpur in the district of Nawada measuring two acres in Block “22” bearing Thana No. 309, C.S. Plot No. 01/P. A dispute arose in the year 2011 with regard to illegal quarrying by the petitioner which led to the authorities imposing penalty for such act. In revision also, the order was upheld which led the petitioner coming to the Court in C.W.J.C. No. 19005 of 2013. The writ petition was disposed off by judgment and order dated 19.11.2016 setting aside the revisional order as well as the demands dated 21.09.2018 and 12.11.2011. However, the Court observed that the order would not preclude the Assistant Director, Mines to proceed in the matter afresh but in accordance with law and only after handing over the spot enquiry report to the petitioner. It appears that after demands were raised, the lease of the petitioner was terminated on 6th December, 2012. The petitioner appears to have filed representations against the same. However, no order has been passed on the same and the petitioner has also not approached the Court against such termination.

4. Learned counsel for the petitioner submitted that the e-auction being conducted by the authorities of which the process has started today, includes two acres of area for which the petitioner was granted the lease which was illegally terminated. It was submitted that the Court had directed the Assistant Director,



Mines by issuing mandamus to proceed afresh in accordance with law after handing over the spot enquiry report to the petitioner. It was submitted that the same not having been done, the two acres area which was leased out to the petitioner on 22.10.2008 and for which agreement was also executed on 24.10.2008 for a period of five years should be given to the petitioner for the remaining period and in the present transaction, the said area should be excluded. Learned counsel drew the attention of the Court to the representation filed by the petitioner on 16.02.2017 before the Collector, Nawada in which one of the prayers is that the materials lying at the spot may be allowed to be removed by the petitioner. He further drew the attention of the Court to the representation dated 18.01.2018 in which he had prayed for extension of the period of lease in his favour.

5. Learned counsel for the State and learned Special P.P. submitted that the petitioner by not taking effective steps, if at all he was aggrieved by the termination of his lease on 6th December, 2012, cannot be allowed to raise the contention at this point of time, especially when the Department has already proceeded with a fresh settlement after due publication, through e-auction and for which the last date of filing tender was 3rd December, 2018 and today being the day when the technical bid is scheduled to be



scrutinized/opened. It was further submitted that the petitioner kept quiet for six years before approaching the Collector making a prayer for removal of the materials also appears to be suspicious as it cannot be accepted that a person who has a rightful claim on any article would let the same perish due to vagaries of nature and wait for such a long period. Learned counsel submitted that the timing of the representation also indicates that it was only with a view to frustrate the impending and obvious fresh settlement of the areas for quarrying.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the writ application. As has rightly been pointed out by learned counsel for the State and learned Special P.P., the lease in favour of the petitioner of the two acres in question, having been terminated on 06.12.2012 itself and there being no order or interference in the same till date, the petitioner does not have a case for getting the fresh auction stayed or interfered with. Even applications/representations filed by the petitioner are only in February, 2017 and January, 2018, i.e., much belatedly. Here, the Court would observe that such a long period would also have led to the materials which may have been there at the relevant point of time, to be subject to the vagaries in nature.



Furthermore, the exercise of determining as to in the year 2012 what was the actual material at the spot may not be an easy task practically.

7. For the reasons aforesaid, the writ petition stands dismissed.

8. However, if at all, the contention of the petitioner is correct that still his lawfully and genuinely quarried stone chips are lying there or there are equipments which belong to him, the same would be required to be returned to him as the State has not confiscated the same since no order of any confiscation has been brought to the notice of the Court on behalf of the authorities. Thus, if the petitioner approaches the Collector, Nawada for getting spot verification with regard to his materials/equipments which may bonafidely and genuinely belong to him, the Collector would get the matter looked into and pass a reasoned order in accordance with law to the extent physically and practically possible today, keeping in view the long period which has elapsed, i.e., over six years from the date of termination of the lease.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	

