

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION NO.139 OF 2017
IN WRIT PETITION NO.7128 OF 2016
(M/s. Ajanta Minerals vs. The State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri A.S. Kilor, Advocate for applicant/intervener.
Shri R.S. Parsodkar, Advocate for petitioner.
Ms. T. Khan, Assistant Government Pleader for
respondent.

CORAM : B.P. DHARMADHIKARI AND
MRS. SWAPNA JOSHI, JJ.

DATED : JANUARY 22, 2018

Applicant Ghulam Ashi s/o Daud Khan Pathan has filed this application seeking leave to intervene. His contention is that prospecting licence was never issued to a partnership firm, but it was issued to a proprietary firm/concern of Ghulam Ashi. This is being disputed by petitioner.

2) Petitioner has taken out Civil Application No.14/2018 for direction to intervener Ghulam Ashi to produce original prospecting licence. The said person Ghulam Ashi has filed reply and urged that it is not in his possession.

3) Both parties have got their respective contentions about custody of original prospecting licence.

4) Though we have tried to find out office copy of said prospecting licence from original records of respondent State, the original records do not contain any such office copy. We, therefore, wanted to find out application moved for prospecting licence. The original application must be on record of respondent. However, that original application is also not available.

5) At this stage we adjourned the hearing for about half an hour to enable learned Assistant Government Pleader to obtain instructions from Mining Officer, Gadchiroli, who has brought the records along with his staff.

6) Ms. Khan, learned Assistant Government Pleader after instructions and understanding the records has submitted that respondent has obtained some documents from parties only to understand the controversy.

7) Looking to rival contentions, it is apparent that reliance upon such documents may not be wise.

8) Intervener has also raised a preliminary objection. It is pointed out that for identical purpose, Regular Civil Suit No. 9/2011 was unsuccessfully filed by the present petitioner. The petitioner disputes this.

9) In this situation, we allow application for intervention and direct that Ghulam Ashi be added as party respondent no.2. It is open to respondent no.2 to file appropriate reply on record.

10) During hearing, as prospecting licence is

claimed to be issued way back in 2005, we wanted to find out when loss of original has been reported either to Police or superiors. Ms. Khan, learned Assistant Government Pleader, upon instructions, has submitted that on 21/12/2016 loss of original documents/office copies has been communicated to superiors.

11) In this petition, prayer is to set aside order dated 8/6/2017 passed by Minister, Department of Industries whereby Minister has decided that M/s. Ajanta Minerals, a proprietary firm, is entitled to grant of mining licence over an area of 65 hectares in village Sohale.

12) This petition was listed along with Writ Petition Nos.7201/2016 and 7204/2016 on 4/1/2017. In those petitions, the effect of amendment to Section 10 of the Mines and Minerals (Development and Regulation) Act, 1957 and deadline for execution of lease was questioned. Because of interim orders passed in those petitions, in the present matter also, we have granted petitioner interim protection from mandate of that amendment.

13) In this situation, main question, which arises for our consideration is whether a legislative mandate incorporated in public interest can be allowed to be defeated because of private dispute between parties. In absence of necessary records and assistance from Government, we direct petitioner as also respondent no.2 to address us on this question on 30/1/2018.

14) The Mining Officer has in his custody three files, which according to him are the originals on the basis of which the present matter is being defended by respondent State. We take these three files in custody and direct Registry of this Court to put seal upon them in the presence of Mining Officer, representative of petitioner and Junior of Adv. Kilor and preserve them until further orders.

15) List on 30/1/2018 for further consideration.

JUDGE

JUDGE

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