

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-:-

C.W.P No. 11241 of 2018 (O&M)

Date of decision: 09.04.2019

Confitech Barter (P) Ltd.

.....Petitioner

Vs.

The State of Punjab & Ors.

...Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE LALIT BATRA**

Present:- Mr. Girish Agnihotri, Sr. Advocate, with
Mr. Ankur Gupta, Advocate, for the petitioner.

Mr. Suveer Sheokand, Addl. A.G., Punjab.

MAHESH GROVER, J. (Oral)

C.M No. 2291-CWP of 2019

In view of the averments made in the application and after hearing learned counsel for the parties, the application for preponement is allowed and the main case is taken on Board today for final hearing.

C.W.P No. 11241 of 2018

On 21.05.2018, it was contended before us that access to the mining area has not been provided to the petitioner and the only available revenue road that can be utilised for its access is also beyond his use on account of objections from the residents of the area.

The acknowledgment of this fact was noticed in the communication by the General Manager-cum-Mining Officer himself when he wrote to the Senior Superintendent of Police, Khanna. We for the purposes of reference make this communication part of the order:-

“ *On the above subject, it is respectfully informed to your goodself that the above Lubangarh mine has been allotted to Confitech Barter Pvt. Ltd., by the Government. The contractor vide his letter*

dated 169 dated 05.02.2018 has made a complaint to this office that hindrances are being created by the residents of the nearby villages, in the use of revenue road going towards mine, as a result of which, lot of difficulties are being faced by the contractor in excavation of sand and its loading. Due to this, huge financial loss is being suffered by him. Thus, you are requested to issue necessary directions to the concerned officer for removal of the above difficulties.”

On 18.09.2018, learned State counsel representing the respondents conceded that representations had been made by the petitioners to the Senior Superintendent of Police in this regard. It is also stated before us that the petitioners need to have access to the mines through the revenue rasta, the use of the which is objected by the residents of the area. The Senior Superintendent of Police apparently had not looked into this aspect of the resident's objection to the use of revenue rasta.

Today, an affidavit has been filed by learned counsel for the State categorically asserting that there is revenue rasta and there is absolutely no objection by the residents of the area, if the petitioner uses the same for transporting the minerals. Photographs have been appended to show the existence of a rasta.

Learned counsel for the petitioner does not deny the existence of a rasta but the issue that he raises is of its permissibility for transporting the minerals for excavation.

Learned State counsel, on instructions from Mahesh Dhir, SDO Mining, Samrala, states that there is absolutely no encumbrance on revenue rasta and neither there is any objection from the residents and the petitioner can very well transport the minerals through this passage.

regard and states that he would be satisfied if the Mining Officer and his team are deployed everyday over a period of three weeks' to establish this fact whether the revenue rasta can be used for transportation of mineral or not and whether the residents create any obstacles in this regard.

To this learned counsel for the State, on instructions from Mahesh Dhir, SDO Mining, Samrala, states that he has no objection.

We would, therefore, dispose of the petition in view of the virtual consensus and the stand of the parties that for a period of three weeks' the Mining Officer either himself or through some officer deputed by him in this regard be present on the site and ensure the transportation of the minerals after excavation by the petitioners.

At this stage, learned counsel for the respondents states that the petitioner had despite all these obstacles succeeded in mining mineral and would thus be liable to make payment in this regard. It is conceded that the notice has been issued to the petitioner.

We are of the opinion that this is the matter which has to be settled by the respondents by having recourse to the due process of law. Accordingly, liberty in this regard is granted. Needless to say that the petitioner will be at liberty to refute the notice.

The petition is disposed of in the above terms.

(MAHESH GROVER)
JUDGE

April 09, 2019
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(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No