

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1221 of 2016

In
Civil Writ Jurisdiction Case No.8591 of 2012

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1. The State Of Bihar, through the Mines Commissioner, Bihar, Patna
 2. The Mines Commissioner, Bihar, Patna
 3. The Collector, Jamui
 4. The Director of Mines, Bihar, Patna
 5. The Mineral Development officer, Jamui

... .. Appellants

Versus

Jan Kalyan Sharmik Swablambi Shahkari Samitjee Ltd. Through its Treasurer
Sri Bibhash Kumar Singh, son of Shri Dip Narain Singh, resident of
Nimarang Ward No. 29, Post Office Police Station and District Jamui

... .. Respondent

Appearance :

For the Appellants	:	Mr. Naresh Dikshit, Spl. P.P Mines Ms. Vaishnavi Singh, Advocate
For the Respondent	:	Mr. Amit Shrivastava, Mr. Prabhat Ranjan Singh, Advocates

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

11 08-01-2020 The present appeal is directed against the judgment dated 16.08.2015 passed by the learned Single Judge in CWJC No. 8591 of 2012 whereby the writ petition filed by the petitioner-respondent herein was disposed of with certain directions.

The State Government is aggrieved by the observations made by the learned Single Judge in the penultimate paragraphs of the judgment whereby the State is



restrained from realizing any rent/royalty from the petitioner after 6th February, 2009. The operative part of the judgment in paragraphs 20 and 21 reads as under:-

“20. As I have already stated that the petitioner was debarred from extraction of sand vide order dated 16.01.2009 and he was forcibly stopped from extracting sand from sand ghat D with the help of the concerned officers-in-charge of police stations vide order dated 06.02.2009 and, therefore, in my view, the respondents can not realize any rent /royalty from the petitioner after 06.02.2009.

21. On the basis of the aforesaid discussions, this writ petition stands disposed of with direction to the respondents to re-calculate the dues amount including rent/royalty till 06.02.2009 and pass a fresh order in respect of realization of dues amount from the petitioner in accordance with rules and adjust the same with the amount already deposited by the petitioner with the respondents and return the remaining amount, if any, to petitioner within 30 days from the recalculation of the dues amount.”

After the matter was heard at length and with consent of the parties, the impugned directions (supra) are modified herein to the extent that:-

(a) the appropriate authority shall carry out the exercise of assessing the amount due from the petitioner-respondent herein, be it from 16th January 2009, 6th February, 2009 or thereafter.

(b) before determining the due amount, an opportunity of hearing shall be afforded to all concerned, including the writ petitioner-respondent herein, and a decision shall be taken in the matter after consideration of the material which the parties shall



place and the appropriate authority under the Act/Rules shall pass a reasoned order. It will be open by either of the parties to assail the same, if so required and desired.

Needless to add, that the issue pertains to the year 2009 and the authority under the Act/Rules shall take appropriate decision in accordance with law, within a period of six months.

Parties undertake to appear before the appropriate authority on 27.01.2020 and apprise passing of the present order.

The appeal stands disposed of.

We appreciate the valuable assistance rendered by Ms. Vaishnavi Singh, learned Advocate, to the Court.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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