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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No. 2892 of 2019

M/s Bharat Aluminium Co. Ltd, A Company Incorporated Under The Provisions Of Companies Act, 1956, Having Its Registered Office At Core VI, Scope Office Complex, 7, Lodhi Road, New Delhi And Its Plant At Balco Nagar, Korba, Chhattisgarh, Through Associate General Manager (Legal) Gaurav Saini S/o Shri Vijay Saini, Aged 37 Years, C/o BALCO, Balco Nagar Korba, District- Korba, Chhattisgarh **---- Petitioner**

Versus

- State Of Chhattisgarh Through Mining Officer, Mining Department, Kabirdham, District- Kabirdham, Chhattisgarh **---- Respondents**

For Petitioner	:	Mr. Kshitij Sharma, Advocate
For State	:	Mr. S. Dubey, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

18.08.2020

1. The challenge in the present writ petition is primarily to the order Annexure P-1 dated 09.07.2019 passed by the Board of Revenue to the extent of rejection of the application under Section 52 of the Chhattisgarh Land Revenue Code filed by the petitioner seeking stay of the order passed by the Collector of Stamps dated 19.12.2018.

2. The brief facts relevant for adjudication of the present writ petition are that the respondent had granted lease in favour of the petitioner for excavation of Bauxite at village Munda Dadar, Kesmarda, Rabda & Semsata, Tahsil Bodla, District Kabirdham measuring 626.117 hectares. The lease was initially executed w.e.f. 27.03.1997 for a period of 20 years till 26.03.2017. Meanwhile, in view of the

amendments that took place in the Mines and Minerals (Development & Regulation) Act, 1957, it was decided to grant lease to all the existing lease holders for a period of 50 years. Pursuant to the said decision, the petitioner applied for extension of lease for a further period of 30 years vide their letter dated 21.12.2016. The concerned Mining Officer immediately wrote a letter to the Sub Registrar Stamps for ascertaining stamp duty and registration charges that would be leviable upon the petitioner for executing the extended supplemental lease deed. The Sub Registrar, Kawardha vide Annexure P-4 dated 02.02.2017 intimated the Officer that the stamp duty to be paid by the petitioner would be Rs.5,10,89,063/- and the registration charges thereon would be Rs.3,64,92,230/-.

3. According to the petitioner, the said amount of stamp duty and registration charges were paid and the supplementary lease deed got executed on 28.03.2017. However, subsequently there was an audit objection made in respect of stamp duty and registration charges collected from the petitioner. Accordingly, a proceeding under Section 47A(3) of the Indian Stamp Act was initiated and vide order Annexure P-9 dated 19.12.2018 the Collector of Stamps, Kabirdham passed an order stating that the valuation earlier done was undervalued and the petitioner is required to further pay an additional amount of Rs.1,11,97,988/- towards stamp duty and registration charges, with a break up of Rs.65,32,174/- towards stamp duty and Rs.46,65,814/- towards registration charges.

4. Now in exercise of the remedy available under Section 47A4, the petitioner preferred an appeal before the Board of Revenue challenging the order of the Collector of Stamps dated 19.12.2018. The petitioner along with the appeal had also moved an application under Section 52 of the Chhattisgarh Land Revenue Code seeking for a stay of the order passed by the Collector of Stamps till the appeal of the petitioner is finally decided. The Board of Revenue has admitted the appeal, however, vide impugned order Annexure P-1 has rejected the application under Section 52 of the LRC granting stay of the execution of the order. It is this order which is under challenge.

5. The contention of the counsel for the petitioner is that undisputedly at the time of execution of the extended supplementary lease deed, the petitioner had paid approximately 8.7 crore rupees and the difference amount now ordered to be paid as per the order of the Collector of Stamps comes to only around Rs.1.11 crores. This would itself show that the substantial amount has already been paid by the petitioner and the balance amount is not too big an amount which should be realized at this juncture particularly when the appeal has been admitted for hearing.

6. The only limited prayer that the petitioner makes through the present writ petition is that the execution of that order be stayed only till the appeal is decided by the Board of Revenue.

7. The State counsel, on the other hand, opposing the petition submits that the Board of Revenue while rejecting the application has clearly given reasons for rejecting the same. According to the State counsel, the reason for rejection was that no plausible justification was given by the petitioner showing irreparable loss that would be caused in the event the petitioner has to make payment of the difference of amount of

Rs.1.11 cores. Therefore, there is hardly any scope available for interference or it cannot be said that the order passed by the Board of Revenue to be bad in law or arbitrary.

8. Be that as it may, from the aforesaid factual matrix what is not in dispute is that admittedly the petitioner has paid approximately Rs.8.7 crores at the time of execution of the extended supplementary lease deed on 28.03.2017. The amount so paid by the petitioner was also as per the assessment made by the Sub Registrar vide Annexure P-4 dated 02.02.2017. The provisions of law provide for an appeal against the order passed by the Collector of Stamps under Section 47A3 of the Indian Stamps Act. The petitioner had availed the statutory remedy of appeal before the authority concerned well within time and had asked only for a stay of the execution of the order till the appeal is decided by the appellate forum.

9. Considering the fact that the difference of amount assessed by the Collector of Stamps is just about 1.11 crores, ends of justice would meet if the execution of the order of the Collector of Stamps dated 19.12.2018 is stayed till the appeal of the petitioner is pending consideration before the Board of Revenue. It is ordered accordingly.

10. Needless to mention that the moment the appeal of the petitioner stands decided by the Board of Revenue, either parties would have the liberty to act in accordance with law.

11. With the aforesaid direction the writ petition stands allowed.

Sd/-
P. Sam Koshy
Judge

Khatai