

August 17, 2021

ARDR

(52)

WPA 12254 of 2021

Sk. Abdul Rafik

Vs.

The State of West Bengal & Ors.

Mr. Mir Anowar,

.... for the petitioner.

Mr. Chama Mukherjee,

Ms. Manika Pandia,

.... for the State.

The petitioner seeks extension of a mining lease for excavation of sand.

It is alleged on behalf of the petitioner that the petitioner was granted a lease on 27th October, 2016 for a period of five years. However, because of the ongoing pandemic i.e. COVID – 19 the petitioner could not carry on the excavation work for the entirety of the stipulated lease period. Hence, the petitioner seeks extension of the original stipulated time period of the mining lease. It is also alleged that in view of the force majeure clause in the lease deed, the State is obliged to extend the lease period.

The State is represented and submits that the petitioner raises a contractual dispute which ought not to be adjudicated by a Writ Court. In any event, there is no scope for extension or grant of mining lease in view of the extant provisions of law and the only way in

which a lease can be granted in respect of excavation of sand is by way of an e-auction.

I have considered the submission made on behalf of the parties. I am of the view that there is no scope of granting any order in favour of the petitioner. In view of the extant provisions of law i.e. Mines and Minerals (Development and Regulation) Act, 1957 and Mineral Concession Rules, 1960, the only manner for grant of a mining lease is by way of an e-auction. I also do not find any merit in the argument for the applicability of the force majeure clause. In any event, I am of the view that the said clause has no applicability in the facts of the instant case. Such disputes cannot be adjudicated by in summary proceedings. In the aforesaid circumstances, I find no merit in the case of the petitioner for extension of the subject mining lease.

In view of the aforesaid, WPA 12254 of 2021 is dismissed. However, there shall be no order as to costs.

(Ravi Krishan Kapur, J.)