IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5529 of 2021

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Sainik Industries Pvt. Ltd. (formerly Sainik Foods Pvt. Ltd.) having it's registered office at Flat No. 201 and 202, Vikas Plaza, Building No. 2 Local Shopping Centre, Kalka ji New Delhi- 110019 through it's authorized representative namely Brijendra Kumar Singh male aged about 50 years son of Rajman Singh resident of Pipersandi, Gorakhpur (UP)

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Cum Commissioner, Department of Prohibition, Excise and Registration, Bihar, Patna
2. The District Magistrate cum Collector, Gaya
3. The District Registrar, Gaya
4. The District Sub-Registrar, Gaya

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, Advocate

For the Respondent/s : Mr. Lalit Kishore (AG)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

> “(a) For holding and a declaration that the mining lease deed executed by the respondent Department of mines and geology in favour of the petitioner in terms of Bihar Mineral (Concession Prevention Of Illegal Mining. Transportation And Storage) Rules. 2019 (hereinafter referred to as "rules" or the sake of brevity) is simply an agreement/Memorandum of Rights and Duties etc. and attracts Stamp Duty payable as per Article 5 (c) of Schedule I (A) of the Indian Stamp Act. 1899;

(b) For holding and a declaration that the mining rights awarded to the petitioner for mining of stone pursuant to settlement done in an auction is neither a lease defined u/s 105 of Transfer of Property Act. 1882 nor a lease defined u/s. 2 (16) of the Indian Stamp Act, 1899 and is fulls confined within the confines of words and expression used under section3(c) of the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the "Act" for the sake of brevity.);

(c) For holding and a declaration that the expression mining lease used u/s 3(c) of the Mines and Minerals (Development and Regulation) Act, 1957 has to be strictly construed within the four walls of the said act and the rules as aforesaid as the act is a special law dealing with the concept of lease in the matter of settlement of mining rights and therefore the stamp duty on instrument pertaining to award of mining rights has to be decided accordingly;

(d) For holding and a declaration that the provision of Indian Stamp Act, 1899 in so tar as the definition of lease as contained in section 2(16) is concerned is applicable for the purpose of the requirements of the said Act if the situation so require and it cannot redefine, extend or elaborate the meaning and scope of the term mining lease as provided u/s 3(c) of the Mines and Minerals (Development and Regulation) Act, 1957;

(e) For issuance of a writ or order or direction upon the respondent No. 3 and 4 to receive and accept hank guarantee on account of stamp duty and registration fee in similar terms as directed by this honourable court in similar set of facts and reliefs vide order dated 19.11.2016 passed in CWJC number 7034 of 2016 order dated 11.10.2017 passed in CWJC number 12761 of 2017 and order dated 24.11.2017 passed in CWJC number 8868 of 2017 (in the

> matter of petitioner itself'):
> (f) For issuance of a writ or order or direction upon the respondents specially the respondent no.3 and 4 t refund to the petitioner the amount of Rs. 12,965,600/- being equivalent to the bank guarantee to be furnished by the petitioner on account of balance of stamp duty in light of the aforesaid orders of this honourable court in similar facts and circumstances and reliefs prayed for;
> (g) For grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case."

It is not in dispute that order dated 19.11.2016 passed in CWJC No. 7034 of 2016, titled as Mr. Aman Sethi Vs. The State of Bihar & Ors. (Annexure-11 Page No. 125), order dated 11.10.2017 passed in CWJC No. 12761 of 2017, titled as Kunal Deep Singh Gujral Vs. The State of Bihar & Ors. (Annexure-12 Page No. 133) and order dated 24.11.2017 passed in CWJC No. 8654 of 2017, titled as M/s Mahadev Enclave Pvt. Lt Vs. The State of Bihar & Ors. And other analogous cases (Page No. 145) are not subject matter of challenge in any proceedings.

It is also not in dispute before us that the present petitioner is similarly situated as that of the petitioners in the said petitions, specially in CWJC No. 8654 of 2017, titled as M/s Mahadev Enclave Pvt. Lt Vs. The State of Bihar & Ors (Page No. 145 Supra), which is in reference to the very same petitioner.

As such, we see no reason as to why the petitioner be discriminated and the Sub-Registrar, Gaya not accept the Registration Fee Charges/ Stamp duty by way of bank guarantee, as is so done in the similarly situated person.

As such, on this short ground alone, we dispose of the present petition with direction to the authorities to render similar treatment to the instant petitioner. However, we clarify that should the authorities challenge the directions issued in the decision referred to supra, the instant order would not come in the way of the decision.

Interlocutory Application(s), if any, shall stand disposed off.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	