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jdt.

09.11.2022
jb.

W.P.A. 19242 of 2019
Nunnehaar Bibi (Israil Sk Since deceased)
Vs.
District Magistrate, Purba Bardhaman & Ors.

Mr. Murari Mohan Das
Sk. Musiar Rahaman
.... For the Petitioner
Mr. Chandi Charan De
Mr. Anirban Sarkar
.... For the State

Heard learned counsels for the parties

Prayer 'a' of the writ petition is as hereunder:

“a) A writ of and/or in the nature of Mandamus shall not be issued commanding the respondents, their men, agents, servants and subordinates specially respondent No. 2 to allow the petitioner to deposit the amount of Rs.13,17,231/- in terms of the order dated 20.09.2019 (Annexure “P-6”) passed by the respondent No. 2 by endorsing TR Forms with heads of account as required;”

The writ petitioner seeks to deposit the amount of Rs.13,17,231/- as penalty in terms of the order passed

by the Additional District Magistrate and District Land and Land Reforms Officer, Purba Bardhaman on 20th September, 2017 and prays for issuance of grant order by the authority upon depositing the said amount. It is submitted on behalf of the petitioner that despite several attempts made by the petitioner for depositing the said amount, the authority has refused to approve challan for depositing the same.

Placing reliance on the affidavit in opposition submitted on behalf of the respondents, learned counsel for the respondents has taken the Court to page 14 of the affidavit in opposition and submitted that an enquiry held by the Revenue Inspector revealed that only an area of 42 decimals was found fit and proper for long term mining lease.

It is not in dispute that long term mining lease was granted to the petitioner for a period of five years vide deed of lease registered on 7th July, 2009 which expired on 6th July, 2014. Renewal of the said lease was granted in favour of the petitioner by an order passed by the District Magistrate, Bardhaman on 7th July, 2015 subject to payment of outstanding dues by the petitioner. The petitioner prayed for exemption of the payment of outstanding dues and pursuant to a writ petition filed by the petitioner before this Court being

W.P. 14102(W) of 2017 exemption was granted to the petitioner for the period May 2011 to December 2011 and January, 2014 to June, 2014 and the petitioner was directed to deposit Rs.13,17,231/-as penalty by the impugned order for issuance of grant order in his favour.

Strangely, though it was communicated to the Block Land and Land Reforms Officer, Mongalkot on 28th July, 2017 that only 42 decimals in the plot in question was found fit for holding mining operation, the same is not reflected in the order impugned. Though the said order was passed in presence of the Block Land and Land Reforms Officer on 20th September, 2017. Since the order passed on 20th September, 2017 does not record reduction in availability of the land in question, the letter issued by the Revenue Inspector on 28th July, 2017 cannot be placed reliance on. Despite having ample opportunity to draw the attention of the Additional District Magistrate and District Land and Land Reforms Officer, Purba Bardhaman to the letter dated 28th July, 2017, the Block Land and Land Reforms Officer chose not to do so. Such act of the Block Land and Land Reforms Officer suggests that the officer himself did not place reliance on the said letter and as such, the said letter cannot be given much credence. The petitioner is ready and willing to deposit the penalty as directed in the order impugned dated

20th September, 2017 within one month from date. Upon the said amount being deposited by the petitioner, the 2nd respondent is directed to issue grant order/renew the deed of lease in terms of the order dated 7th July, 2015 as well as 20th September, 2017 within one month thereof.

The writ petition is disposed of accordingly.

There shall be no order as to costs.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)