

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3249 OF 2020

PETITIONER :- Ajitkumar Amolakchand Jain, aged about 45 years, Occup.Business, R/o Jaistambh Chowk, Gondia.

...VERSUS...

RESPONDENT :- The Collector, Collectorate Administrative Building, Amgaon Rd, Fulchur Tola, Gondia 441 01

WITH
WRIT PETITION NO. 1579 OF 2021

PETITIONER :- Amrutpalsingh Manoharsingh Kapoor, aged about 60 years, Occup. Business, R/o Civil Lines, Washim, Tah.And District-Washim.

...VERSUS...

RESPONDENTS :-

1. State of Maharashtra,
Through its Secretary, Revenue
and Forest Department,
Mantralaya, Mumbai-32.
2. The Collector Washim, Tah. And
District, Washim.
3. Sub Divisional Officer, Washim
Tah. And District Washim.
4. Tahsildar Washim, Tah.And District
Washim.

Mr.C.S.Kaptan, senior Advocate a/b Mr. J.B.Gandhi, counsel for
the petitioner in W.P.No.1579 of 2021
Ms.N.P.Mehta, A. G.P for respondent No.1-State in both the writ
petitions.
Mr.A.A.Naik, counsel a/b Mr.S.K.Bhandarkar, counsel for the
petitioner in W.P.No.3249 OF 2020

**CORAM : SUNIL B.SHUKRE &
G.A.SANAP, JJ.**

DATE : 15.09.2022.

O R A L J U D G M E N T (Per :Sunil B.Shukre, J.)

- 1) Heard.
- 2) Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.
- 3) In Writ Petition No.3249 of 2020, statement is made by learned AGP on instructions that the application of the petitioner seeking renewal of the lease of the subject land can be forwarded by the Collector to the State Government for its appropriate decision in accordance with law and therefore, this petition could be disposed of on the basis of the statement so made and at the most, the decision making process can be made

time bound. In the other petition being Writ Petition No.1579 of 2021, there is an affidavit filed by the Secretary to the Government in pursuance of the directions issued by this Court. This affidavit, shows that renewal of lease is something, which is different from auction process, when it is said in paragraph No.2 that “renewal of lease does not require auction process” and it is further stated that “renewal of lease can be made after verifying the terms and conditions mentioned in original lease grant order by the State Government”. So, what is clear now is that if the original lease order incorporates the condition for renewal of lease, applications made for renewal of lease could be appropriately considered and even granted, if the other terms and conditions governing the question of renewal of lease are fulfilled. It would also mean that auction process is entirely a different thing from renewal of lease. In this additional reply, the Secretary, Revenue and Forest, State of Maharashtra has further stated that in case of the land involved in Writ Petition No.1579 of 2021, the land being E- Class Gairan land, lease cannot be renewed in view of the prohibition imposed vide Government Resolution dated 12.01.2018, except when the lease is to be granted or renewed for

achieving a public purpose. This would show that even in case of E-Class lands, lease can be renewed and only prohibition for renewal of lease is upon E-class Gairan lands.

4) Having considered and understood the stand of the State Government in above manner, we proceed to address the issue involved in both these Writ Petitions.

5) In both these Writ Petitions, in respect of the lands involved, already a mining lease has been granted by the State Government and the lease order, in both the matters contains a clause for renewal of lease. In the first Writ Petition, the State Government has already expressed it's willingness to consider the lease renewal application of the petitioner therein in accordance with law and in the second Writ Petition, the State Government, though conceded that in principal lease can be renewed, if there is a condition of renewal of lease in the original lease, has stated the lease cannot be renewed on account of the fact that the land involved is E- class Gairan land, but this fact has been shown to be incorrect by the petitioner, which is seen from the affidavit filed by

way of rejoinder by the petitioner, wherein the petitioner has stated that this land is not a Gairan land. This statement of the petitioner is supported by report of Talathi which categorically shows that this land is not a Gairan land. Respondent No.1. Secretary, Revenue and Forest to the State of Maharashtra has filed a counter affidavit to the said rejoinder of the petitioner. In this counter affidavit, the respondent No.1 has not denied the fact that the land in question is not a Gairan land. He has also not stated anything about the correctness or otherwise of the report of the Talathi. These facts, therefore, in our considered view establish in a reasonable manner the fact that the land involved in Writ Petition No. 1579 of 2021 is not Gairan land. That means, even in respect of this land, the application filed for renewal of the lease can be considered and even granted, if other terms and conditions governing the issue of renewal of lease are fulfilled. Needless to say, the auction process of such lands, admittedly is different from the renewal of lease in respect of such lands.

6) In view of above, both the Writ Petitions are allowed.

7) The order impugned in Writ Petition No.1579 of 2021 is hereby quashed and set aside and lease renewal application is directed to be revived.

8) In view of above, we direct the respondents to consider and decide the lease renewal applications filed by the petitioners in both the Writ Petitions in accordance with law, keeping in view the observations made herein above as expeditiously as possible, preferable within three months from the date of receipt of the order of this Court.

9) Rule is made absolute in above terms. No costs.

(G.A.SANAP, J)

(SUNIL B. SHUKRE, J)