

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

WRIT PETITION NO.7128 OF 2016

M/s. Ajanta Minerals, through Managing Partner-Rajendra P. Tank, Nagpur
vs.

The State of Maharashtra through Secretary, Deptt of Industries, Energy and
Labour, Mumbai and another.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R.S. Parsodkar, Advocate for petitioner/non-applicant.
Ms K.R.Deshpande, Assistant Government Pleader for respondent no.1.
Shri Arjun Bobde, Advocate with Mrs. S.A.Jadhao, Advocate for
applicant/respondent no.2.

CORAM :- A.S.CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.
DATE :- AUGUST 25, 2022

CIVIL APPLICATION(W) NO.1586 OF 2022

By this civil application the respondent no.2 in Writ Petition No.7128 of 2016 has prayed that the original records that were produced by the Mining Officer for perusal pursuant to the orders dated 23.02.2017 and 22.01.2018 be directed to be returned to the respondent no.2.

2. Writ Petition No.7128 of 2016 was filed initially seeking directions to be issued to the respondent no.1 to decide the prayer for grant of mining lease in favour of the petitioner, a registered partnership firm. By amending the writ petition, the order dated 08.06.2017 passed by the State Government holding M/s. Ajanta Minerals – a proprietary firm entitled for grant of mining lease was challenged. When the writ petition was being considered for admission by the order dated 23.02.2017 time was granted to

the learned Assistant Government Pleader to place on record copy of prospecting license issued in the name of M/s. Ajanta Minerals. Thereafter on 22.01.2018 the Mining Officer who had in his custody three files alongwith original documents and who was present in the Court on behalf of the State Government was directed to hand over those three files for being kept in the custody of the Registry of this Court. The record was accordingly sealed. By the judgment dated 25.03.2021 this Court dismissed the said writ petition.

3. The said writ petition being decided and Special Leave Petition preferred by the original petitioner having been withdrawn, the respondent no.2-applicant took steps for execution of mining lease in his favour. According to the applicant he was called upon to produce the prospecting license issued earlier and other record in that regard. In that backdrop, this civil application seeking the original documents has been filed. Alongwith the civil application, the communication dated 07.07.2022 issued by the District Mining Officer to the Director, Directorate of Geology and Mining indicating absence of such record has been annexed.

4. The learned counsel for the applicant submitted that the writ petition challenging the order dated 08.06.2017 granting prospecting license in favour of the applicant having been dismissed, the original documents ought to be returned to enable the applicant to seek a fresh mining lease. The record had been seized with a view to consider the same while deciding the writ petition and as the writ petition was dismissed, there was no impediment in returning the original documents.

5. This request is opposed by the learned counsel for the original petitioner by filing reply. It has been stated that since it was alleged that the original prospecting license was taken away by the applicant and the same was not available on record, the order dated 23.02.2017 came to be passed. The applicant was not entitled to make such prayer and it was for the State Government to seek the record. The application was therefore liable to be dismissed.

6. We have perused the record of the writ petition as well as the orders dated 23.02.2017 and 22.01.2018. We have also perused the judgment dated 25.03.2021. It is seen from the order dated 22.01.2018 that three files which the Mining Officer had in his custody were directed to be taken from him and thereafter sealed by the Registry of this Court. The said documents have been thereafter kept in the custody of the Registrar (Judicial). The challenge to the order dated 08.06.2017 granting prospecting license in favour of the applicant has been dismissed and the Special Leave Petition preferred by the original petitioner has been withdrawn with liberty to file a suit against the partnership firm. The applicant has thereafter sought issuance of mining lease and has moved such request before the State Government. The communication dated 07.07.2022 issued by the District Mining Officer indicates that the original records would be required for taking further steps.

7. In these facts, we find that the original records that were taken from the custody of the Mining Officer are required to be returned back to the Mining Officer since there is no need to retain that original record alongwith

the writ petition. The judgment dated 25.03.2021 has attained finality with the withdrawal of the Special Leave Petition. Hence for the aforesaid reasons, it is directed that the records containing three files that were taken into custody from the Mining Officer be returned to the Mining Officer. The Registrar (Judicial) is directed to return the original documents that were kept in sealed envelopes on 22.01.2018. The same be handed over to the concerned Mining Officer in the presence of the Administrative Officer from the Office of the Government Pleader, Nagpur.

The civil application is disposed of with aforesaid directions.

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)

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