

May 10, 2023
(7) ARDR

WPA 626 of 2023

Tapas Porel
Vs.
The State of West Bengal & Ors.

Adv. Soumya Majumder,
Adv. Krishnendu Bera,
Adv. Debolina Chakraborty,
...for the petitioner.
Adv. Sanjoy Saha,
...for the respondent no.7.
Adv. Ashim Kumar Ganguly,
Adv. Joydip Banerjee,
...for the State.

Heard learned counsels for the parties.

It is contended on behalf of the petitioner that the petitioner was granted long term mining lease by the State respondents vide deed of lease dated 21st January, 2020 which is valid upto 3rd February, 2025. The petitioner was unable to extract sand from the leasehold plots due to resistance raised by the local people for which he was constrained to lodge a complaint before the police station. The petitioner was able to start mining operations upon intervention of the local administration but received a notice of show cause cum suspension on 11th May, 2022 from the District Magistrate wherein it was stated that illegal sand mining was detected in the plots allotted to the petitioner. The suspension was withdrawn upon the petitioner depositing penalty of Rs.1 lakh and challan was issued till 4th November, 2022. The concerned authorities stopped generating challans in favour of the petitioner for

which the petitioner was unable to continue with the mining operation since then.

Placing reliance on the report in the form of affidavit submitted on behalf of the Additional District Magistrate and Block Land & Land Reforms Officer, Bankura, being the 4th respondent herein, learned counsel for the State respondents submits that pursuant to a complaint made by the local inhabitants before the authority, an inspection/field enquiry was held by the authority in respect of plots no.2272 and 2276 of Mouza Kunjapur and Mouza Bamnia, Police Station Indas, District Bankura and it transpires from the report submitted on 7th November, 2022 that the left bank of the river over the said geo-coordinates has been eroded along the embankment over more than one kilometer distance due to mining activities. The main stream of the river *Darakeswar* has been shifted to the left side from the center of the river which is causing soil erosion and severe damage to the embankment. The agricultural lands are largely affected and damaged. Some dwelling houses, mandirs are now standing at the border of the embankment which may be engulfed in future if further erosion continues.

The deed of lease executed in favour of the petitioner pertains to plots no.2272, 2269 and 2603. The report deals with plot no.2272 and not other two plots allotted to the petitioner. Therefore, even if the report is accepted in its entirety, it can be held that there is no reservation on the

part of the authority if the petitioner continuing with mining operations for the remaining two plots i.e. 2269 and 2603.

In view of the above, this Court is inclined to hold that the concerned authority, being the 4th respondent, be directed to issue challans in favour of the petitioner for extraction of sand in the said plots being plots no. 2269 and 2603 henceforth for the remaining period of the lease.

Accordingly, the 4th respondent is directed to issue challans in favour of the petitioner in respect of plots no. 2269 and 2603 henceforth for the remaining period of the lease at the earliest.

With the above directions, WPA 626 of 2023 is disposed of.

However, this order shall not preclude the petitioner from taking necessary steps with regard to mining operation in respect of plot no. 2272.

There shall however, be no order as to costs.

Since no affidavit in opposition is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties on usual undertakings.

(Suvra Ghosh, J.)