Form J(2) **IN THE HIGH COURT AT CALCUTTA**
**CONSTITUTIONAL WRIT JURISDICTION**
**Appellate Side**

**Present :**
**The Hon'ble Justice Bibek Chaudhuri**

**IA No.:CAN/1/2017 (Old No.:CAN/712/2017)**
**in**
**WPA 3891 of 2013**

**Tapas Kumar Dolui**
**-Vs.-**
**State of West Bengal & Ors.**

**For the petitioner : Mr. Ranjan Kali,**
**Mr. Avik Pramanick**

**Heard & Judgement on : 26.07.2023**

**<u>Bibek Chaudhuri, J.</u>**

In the instant writ petition, the petitioner being the proprietor of Manasha Brickfield has challenged a notice dated 2nd January, 2013 directing him to pay Rs.18,99,530/- on account of royalty of soil and its interest thereof with effect from 1991 to 2011-2012. It is the case of the petitioner that previously one Crown Brickfield used to run a brickfield and for that purpose soil was extracted by respondent no. 8 who is the proprietor of the said Crown Brickfield. During the period from 2005 to 2011 production of the said Brickfield was closed. Subsequently, the petitioner purchased the land wherein the said Brickfield was operating. Then the petitioner took all steps for inclusion of his name in respect of the business of construction of the Brickfield. He paid necessary taxes and cess etc. for the year 2011-

2012 and 2012-2013. However, the petitioner was directed to pay a sum of Rs.18,99,530/- by impugned notice for the period during which he had no connection with business. Liability of the erstwhile Brickfield owner cannot be imposed upon the petitioner.

In spite of repeated notice the State respondents did not appear to contest the instant writ petition.

On perusal of the annexures, viz., deed of sale, application for enlistment of the petitioner as Brickfield manufacturer, submission of trade licence, submission of up to date royalty and cess etc. and all other payments, this Court is of the view that the petitioner started business of manufacturing bricks under the proprietorship business of Manasha Brickfields from 2011-2012.

He is not liable to pay royalty for extraction of soil during the period from 1991-1992 till 2011-2012. For the reasons stated above, the impugned notice dated 2nd January, 2013 is quashed.

The respondents, however, is entitled to claim all taxes, royalty, cess etc. in accordance with law from the financial year 2011-2012 from the petitioner, if not already paid.

The petitioner is permitted to run the aforesaid Brickfield on payment of the dues as aforesaid, if any.

**[Bibek Chaudhuri, J.]**

**Srimanta, A.R.(Ct.)**
**Item No. 17.**