

14.06.2023
rc/ct.no.10
Item No.16

WPA No. 5762 of 2023
Mantu Chaulya
Versus
The State of West Bengal & Ors.

Mr. Mir Anowar ...for the petitioner

Mr. Chandi Charan De
Mr. Anirban Sarkar ...for the State

Mr. Sanjoy Saha
Mr. Subhasish Bhattacharya
...for the WBMDTC Ltd.

Affidavit of service filed in Court today is taken on record.

Being the highest bidder in the e-auction floated by the respondent authorities on July 04, 2017 and depositing the bid money to the tune of Rs.3,51,00,647/- the petitioner was granted long term mining lease for a period of 5 years vide a deed of lease executed and registered on December 08, 2017 and December 12, 2017 respectively and the deed was valid till December 11, 2022. The petitioner was unable to carry on mining operation due to advent of the covid-19 pandemic and filed an application before the concerned authority for extension of the period of lease.

Learned counsel appearing for the petitioner takes this Court to Clause 5 of Part-IX of the deed of lease which indicates that if through force majeure the fulfillment by the lessee of any of the terms and conditions of this lease

be delayed, the period of such delay shall be added to the period fixed by this lease. Learned counsel also draws the attention of the Court to Section 105 of the Transfer of Property Act, 1882 and submits that the petitioner was prevented from enjoying the lease granted to him by the authority due to reasons beyond his control.

The representation submitted by the petitioner in this regard on July 04, 2022 is yet to be considered. The petitioner prays for a direction upon the authority to consider the representation at the earliest.

It is submitted on behalf of the respondents that the 4th respondent be directed to consider the representation in accordance with law.

In view of the above, the writ petition is disposed of directing the 4th respondent to consider and dispose of the representation submitted by the petitioner on 4th July, 2022 within a period of one month from the date of communication of this order, after giving reasonable opportunity of hearing to all the stakeholders including the petitioner and in the light of Section 105 of the Transfer of Property Act, 1882 as well as Clause 5 of Part – IX of the deed of lease, in accordance with law.

With the above observations and directions this writ petition is disposed of.

There shall be, however, no order as to costs.

Since no affidavit 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 upon compliance of necessary formalities.

(Suvra Ghosh,J)