

21.06.2023
rc/ct.no.10
Item No.14

WPA No. 5943 of 2023
Pawan Arora
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 November 09, 2016 and upon complying with all requisite formalities the petitioner was granted long term mining lease for a period of 5 years vide a deed of lease executed and registered on March 16, 2018 which was valid till March 15, 2023. The petitioner was unable to carry on mining operation due to covid-19 pandemic and filed an application before the concerned authority for extension of the period of lease.

Learned counsel appearing for the petitioner draws the attention of this Court to Clause 5 of Part-IX of the deed of lease which demonstrates 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 unable to reap the benefit of the lease granted to him by the authority due to reasons beyond his control.

The petitioner submitted a representation before the concerned authority on February 08, 2023 seeking permission to excavate the unexcavated sand in the block and in the alternative extension of the period of lease. The said representation is yet to be considered. The petitioner prays for a direction upon the concerned authority to consider the representation at the earliest.

It is submitted on behalf of the respondents that the 3rd respondent be directed to consider the representation in accordance with law.

In view of the above, the writ petition is disposed of directing the 3rd respondent to consider and dispose of the representation submitted by the petitioner on 8th February, 2023 within a period of one month from the date of communication of this order upon affording 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.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

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)