

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17138 of 2019

- 1.1. Batsha Khatoon wife of Late Md. Israil, resident of Village-Tupamari, Ward No. 4, Post Office-Belwa, Police Station-Kishanganj, District-Kishanganj.
- 1.2. Shahnaj Begum, daughter of Late Md. Israil, resident of Village-Tupamari, Ward No. 4, Post Office-Belwa, Police Station-Kishanganj, District-Kishanganj.
- 1.3. Gauhar Taj Begum, Daughter of Late Md. Israil, resident of Village-Tupamari, Ward No. 4, Post Office-Belwa, Police Station-Kishanganj, District-Kishanganj.
- 1.4. Md. Anwarul Haque, son of Late Md. Israil, resident of Village-Tupamari, Ward No. 4, Post Office-Belwa, Police Station-Kishanganj, District-Kishanganj.
- 1.5. Ashraful Haque, son of Late Md. Israil, resident of Village-Tupamari, Ward No. 4, Post Office-Belwa, Police Station-Kishanganj, District-Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Geology, Department of Mines, Government of Bihar, Patna.
2. The Principal Secretary-cum-Mines Commissioner, Department of Mines and Geology, Government of Bihar, Patna.
3. The Collector, Kishanganj.
4. Mines Inspector cum Competent Officer, Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Ranjan, Advocate Ms. Aastha Ananya, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha (GA-7) Mr. Abhinav Alok, AC to GA-7
For the Mines	:	Mr. Naresh Dikshit, Advocate Mr. Brij Bihari Tiwari, Advocate Mr. Utsav Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

10 11-07-2024 Heard Mr. Sanjeev Ranjan, learned counsel for the
petitioners and learned AC to Spl.P.P. Mines as also learned AC
to GA-7.

2. The present writ petition has been preferred for the



grant of following relief/s:-

i. For issuance of a writ in the nature of certiorari for quashing the letter no.596 dated 15.6.2019 and letter no.660 dated 12.7.2019 issued by the Mines Inspector-cum-Competent Authority, whereby and whereunder the petitioner has been asked to deposit the 2nd installment of royalty for financial year 2019 and interest on delayed payment of 1st installment of royalty, failing which appropriate action will be initiated.

ii. For a declaration that the amount realizable in terms of the agreement is directly relatable to winning of minor minerals and sale thereof, and in absence of any winning and sale, on account of intervention due to illegal order of cancellation the royalty as also other charges, can not be realised.

iii. For a direction to the respondent authorities not to take any action or create any impediment for non-deposit of the amount for the interregnum period (i.e. from 7.2.2019 to 8.6.2019 when the settlement of the petitioner was illegally cancelled and consequently the



petitioner was prevented from carrying out mining activity, by the order of the respondent District Magistrate, which was ultimately dated 29.1.2019 interferred with and restored with effect from 8.6.2019.

iv. For a declaration that the petitioner is entitled for exemption from payment of royalty for the period 7.2.2019 to 8.6.2019 and the same may be adjusted against subsequent payment.

v. For any other relief/reliefs to which the petitioner is entitled under law.”

3. The limited case of the petitioners is that the mining of the ghats in the District of Kishanganj was settled for a period of five years (16.01.2015 to 31.12.2019), he being the highest bidder.

4. Learned counsel submits that he continued with his work with full satisfaction of respondents and was diligent in making payment in the installments.

5. It is his case that on the basis of certain allegation, the respondent no. 3, the Collector, Kishanganj passed an order on 29.01.2019 in Misc. Case No. 01 of 2018 (**State vs. Md. Israil**) which was communicated vide memo no. 204 dated



02.02.2019 by which the lease deed was cancelled (Annexure-14 to the writ petition).

6. Learned counsel for the petitioners submit that a revision was preferred against the said order before the Mines Commissioner, Bihar vide **Revision Case No. 04 of 2019 (Md. Israil vs. Collector, Kishanganj and Ors.)** which came to be disposed of on **03.05.2019** and the Mines Commissioner was pleased to set aside the order dated 29.01.2019 passed by the Collector, Kishanganj remanding it back for a fresh decision in the light of Rule 24(3) of the Bihar Minor and Mineral Concession Rules, 1972 (Annexure-15 to the writ petition).

7. Learned counsel submits that the Collector, Kishanganj thereafter took up the matter, heard the parties and vide an order dated 08.06.2019, the lease deed was restored to him. (Annexure-16 to the writ petition).

8. He submits that close on the heels, came the demand letter No. 596 dated 15.06.2019 as also 660 dated 12.07.2019 issued by the Mines Inspector-cum-Competent Authority, Kishanganj directing him to pay the second installment for a financial year, 2019 with interest. He submits that admittedly, between February, 2019 (when the lease deed was cancelled) to 08.06.2019, when it was restored, there was



no lease between the parties and as such, the Mines Inspector could not have demanded the amount for the said period.

9. He submits that aggrieved, a petition was preferred by the petitioner before the Collector, Kishanganj on 04.07.2019 (Annexure-17 to the writ petition) but no decision was taken. It was later forwarded to the Mines Department and the Joint Director (Headquarter) rejected the said representation vide order/memo no. 2554 dated 02.08.2019 (Annexure-20 to the I.A. No. 01 of 2019).

10. Learned counsel submits that due to the threat of the FIR, he deposited Rs. 55 lakhs on 19.11.2019 followed by another Rs. 55 lakhs by way of challans on 21.11.2019 under protest which are part of the Interlocutory application.

11. He submits that so far as the payment part is concerned, there is no dispute with the respondents. He submits that when admittedly, he was out of lease for four months, the petitioners have every right to ask for the refund.

12. Though, the counter-affidavit on behalf of respondent Nos. 3 and 4, the Collector and the Mines Inspector-cum-Competent Officer, Kishanganj respectively is/are on record and learned counsel for the Mines took this Court to paragraphs – 8 to 10 to support the rejection/demand, it nowhere



answers to the question put forward by the petitioner as to whether for the period, his lease deed was cancelled, he is entitled to the refund or not.

13. It seems, the respondents signed the statement of facts without bothering to think about the question that has been raised in the writ petition and/or whether it needs an answer or not.

14. In that background, it would be appropriate that the Principal Secretary-cum-Mines Commissioner, Department of Mines in Geology, Bihar, Patna (respondent no. 2) look into the matter and pass an appropriate order.

15. Accordingly, ordered. The petitioner to represent before the respondent No. 2, The Principal Secretary-cum-Mines Commissioner, Department of Mines and Geology, Government of Bihar, Patna with all the necessary documents in next four weeks.

16. If he prefers the said petition within the aforesaid period, the respondent No. 2, The Principal Secretary-cum-Mines Commissioner, Department of Mines and Geology, Bihar, Patna shall take up the matter and after hearing the parties including the respondent Nos. 3 and 4, if required, will pass the order within a period of three months thereafter.



17. If the respondent No. 2, The Principal Secretary-cum-Mines Commissioner, Department of Mines and Geology, Bihar, Patna comes to a conclusion that the petitioner is entitled to the relief sought for, the payment has to be made within next four weeks of the passing of the order.

18. It is made clear that the respondent No. 2, The Principal Secretary-cum-Mines Commissioner, Department of Mines and Geology, Bihar, Patna shall take an independent decision without going into the earlier order, if any passed by any respondent authority/authorities.

19. The present writ petition stands disposed of.

(Rajiv Roy, J)

Adnan/-

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