

05.12.2024

Item No. A 44

Crt.No.02

b.r.

WPA 14997 of 2024

Achintya Mukherjee

-vs-

Eastern Coal Field Limited & Ors.

Mr. Timir Baran Saha

.... For the petitioner.

Mr. Syed Nurul Arefin

Mr. Sanjiv Agarwal

Mr. Syed Moyeenul Arefin

Ms. Reshmi Binayak

.... For the Resp. nos. 1 to 4.

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

Mr. Timir Baran Saha, learned counsel appears for the petitioner.

Mr. Syed Nurul Arefin, learned counsel appears for respondent nos. 1 to 4.

None appears for the respondent no.4A.

The petitioner complains of carrying out of mining activity by the **respondent no.1** within the vicinity of the petitioner's brick field without following the distance norms.

The petitioner submitted its representation dated **May 4, 2024 at page-93** to the writ petition and the same has not been considered.

In view of the above, the **respondent no.4A** upon issuing a prior hearing notice of at least **seven days** to the **petitioner** and the **respondent nos. 3 and 4** and after granting them an opportunity of hearing shall dispose of the said representation dated **May 4, 2024 at page-93** to the writ petition by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the **respondent no. 4A** positively within a period of **six weeks** from the date of communication of this order. The reasoned order then shall be communicated to the petitioner and the **respondent nos. 3 and 4** positively within a further period of **one week** from the date of the said reasoned order to be passed.

Learned counsel appearing for the respondent no.4 submits that the physical inspection of the site has already taken place and the inspection was attended by the petitioner in whose presence the inspection was carried out. The distance regulation has been followed by the respondent no.1.

The petitioner has filed a civil suit before the jurisdictional Civil Court where an order of *status quo* in respect of the suit property has been passed. Learned counsel further submits that the mining activity being carried out by the respondent no.1 is not within the vicinity of the petitioner's brick field and it is much away

there from. He further submits that the subject suit property in the civil suit is the brick field property of the petitioner and not the land where the respondent no.1 has been carried out the mining work.

It is made clear that this Court has not gone into rival contentions of the parties and the parties shall be at liberty to take all points by relying upon whatever records and documents they wish to rely upon before the **respondent no.4A** in the hearing.

The reasoned order to be passed by the respondent no.4A must contain the details and particulars in support of its every finding with reasons.

It is made clear that this order shall not create any right or equity in favour of the petitioner or in favour of the respondent no.1, if they do not succeed to their respective claims before the **respondent no.4A** in accordance with law.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 14997 of 2024** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)