

31.07.2024
Item No. 11
Crt.No.02
b.r.

WPA 26487 of 2023

Subrata Dey
-vs-
The State of West Bengal & Ors.

Mr. Saptansu Basu, Sr. Adv.
Mr. Ayan Banerjee
Mr. Jay Chakraborty
Mr. Sandip Dinda
Ms. Ipsita Ghosh
..... for the petitioner.

Mr. Chandi Charan De, Ld. AGP
Mr. Anirban Sarkar
... for the State-Resp. nos. 1, 3 to 9.

Mr. Sanjay Saha,
.... For the resp. no.2.

The Daily Cause List though shows file was not available in Court at the time of preparation of the list but subsequently, the file has been made available before this Court and since the parties are present, the writ petition is being taken up for consideration.

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

Mr. Saptansu Basu, learned Senior Counsel being ably assisted by Mr. Ayan Banerjee, learned counsel appearing for the petitioner.

Mr. Chandi Charan De, learned Additional Government Pleader appears for the respondent nos. 1, 3 to 9.

Mr. Sanjay Saha, learned counsel appears for the respondent no.2.

A mining lease was granted in favour of the petitioner for excavation of Sand Block on **March 23, 2018** for a tenure of **five years**. The lease stood expired on **March 27, 2023**. The petitioner during the currency of the lease had excavated sand blocks. After the lease has expired though the entire royalty has been paid but the petitioner is not allowed to remove the excavated sand.

Learned Senior Counsel for the petitioner referring to a communicated dated October 5, 2023, annexure p-7 at page-87 to the writ petition issued by the respondent no.4 submits that the State Authority has specifically admitted that the entire royalty has been paid by the petitioner. Even then the State authority has demanded an additional payment of **0.5 time** royalty as penalty for the residual unsold stock of sand block.

Learned Senior Counsel appearing for the petitioner submits that the petitioner is agreeable to pay the said additional royalty in terms of the demand made through the said communication dated **October 5, 2023**.

Mr. Chandi Charan De, learned Additional Government Pleader appearing for the State-

respondents, on instruction from his clients, submits that the State authority has already issued two notices dated **July 19, 2023 and October 3, 2023** upon the respondent no.2 for opening the necessary portal so that upon payment of the said additional royalty, the entire sand block can be lifted and removed by the petitioner.

Mr. Sanjay Saha, learned counsel for the respondent no.2 submits that upon receiving the payment of the said additional royalty, the respondent no.4 shall inform the respondent no.2 by issuing a challan showing the said additional royalty has been received by the authority and then to allow the petitioner to lift the sand block.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, it appears to this Court that, there is no dispute raised by the respondents with regard to the breach of any lease conditions by the petitioner. It is also not in dispute that the due royalty has already been paid and the petitioner has further agreed to pay the said additional royalty. The operation of portal and its opening is merely an administrative act.

So long, the lease was subsisting whatever usufruct arising out of the lease hold land, belongs to the petitioner and nobody can claim any right over it. The sand block excavated during the currency of the

lease are therefore the property of the petitioner and the same cannot be withheld without due process of law.

In the premises, the petitioner has agreed to pay the said additional royalty within a period of **seven working days** from date to the respondent no.4.

Upon receiving the such payment of additional royalty from the petitioner, the respondent no.4 within **48 working hours** shall pass necessary information to the **respondent no.2**.

Within **48 working hours** from receiving the information from the respondent no.4, the respondent no.2 shall upload necessary challan on its official portal.

The petitioner immediately shall obtain the said challan from the official portal of the respondent no.2 and shall remove and take away the residual unsold sand stock as expeditiously as possible.

It is submitted by the petitioner that the residual sand block is not lying in any portion of the lease hold land.

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 26487 of 2023** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)