

S/L 7
07.08.2025
Court. No. 19
*Suwayan/
Pritam*

WPA 11010 of 2025

**Gobinda Mukherjee
Vs.
The State of West Bengal & Ors.**

Mr. Susanta Rakshit

...for the petitioner.

*Mr. Suddhadev Adak
Ms. Richa Pramanik*

...for the State.

*Mr. Sanjay Saha
Mr. Raju Mondal*

...for the added respondent no. 7.

1. At the time of hearing Mr. Rakshit, learned Advocate appearing on behalf of the writ petitioner submits before this Court that he may be permitted to add the Chairman, West Bengal Mineral Development and Trading Corporation Limited (WBMDTCL), 3rd Floor, DJ-10, WBIDC Building, “D” Block, Salt Lake City, Kolkata – 700091 as party respondent.
2. It is further submitted by Mr. Rakshit that service upon the WBMDTCL has already been effected.
3. The leave as prayed for is hereby granted.
4. Learned Advocate-on-Record is hereby requested to incorporate the name of the added respondent in the cause title of the instant writ petition by making necessary insertion in Court today.
5. The affidavit-of-service as filed today on behalf of the writ petitioner is taken on record.
6. The writ petitioner, the respondents/State and its instrumentalities and the added respondent no. 7 that

is the Chairman, WBMDTCL are represented by their respective Counsels.

7. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ against the respondent authorities more specifically against the respondent no.5 authority for returning the executed deed of lease to the writ petitioner so as to enable the writ petitioner to get the same registered.
8. At the time of hearing, Mr. Rakshit, learned advocate appearing for the writ petitioner at the very outset draws the attention of this court to page no.12 of the instant writ petition being a copy of memo dated November 26, 2013 as issued by the respondent no.5 authority whereby and whereunder a grant order was issued for long-term mining lease for excavation of sand over plot no.-785(P), Mouza-Thakurpur, J.L.No.85, P.S.-Bishnupur, Dist-Bankura, Area-07.00 acres.
9. Drawing attention to page no.15 of the instant writ petition being a copy of the memo dated February 21, 2014, it is further submitted by Mr. Rakshit that under cover of the said memo, the respondent no.5 authority forwarded the executed deed of lease dated February 17, 2014 to the writ petitioner to get the same registered at his own cost. However, the said deed of lease cannot be presented for registration on account of illness of the writ petitioner.
10. It is further submitted by Mr. Rakshit that from page no.17 being a copy of the memo dated June 9, 2015 as

issued by the self-same respondent no.5, it would again reveal that as per request of the present writ petitioner the respondent no.5 authority again executed the deed of lease on March 19, 2015. However, the same was forwarded to the writ petitioner on June 9, 2015 that is after a period of at least three months from the day of execution of the said deed of lease. It is further submitted by Mr. Rakshit that on account of such delay, the said executed deed of lease could not be presented for registration.

11. It is further submitted by Mr. Rakshit that appropriate writ/writs may be issued commanding the respondent no.5 authority to execute a fresh deed of lease in terms of the afore-mentioned grant order and to forward the same to the writ petitioner for getting the same registered.
12. It is further contended that though the said grant order as well as the said two deed leases were forwarded to the writ petitioners under West Bengal Minor Minerals Rules, 2002, which has been repealed now, however, in view of the repealing provisions of Rule 62 of the West Bengal Minor Minerals Concession Rules, 2016 (hereinafter referred to as the "said Rules, 2016"), there cannot be any predicament on the part of the respondent no.5 authority to forward the executed deed of lease to the writ petitioner for getting the same registered.
13. Such prayer is vehemently opposed by the learned advocate for the respondent/State as well as by the

learned advocate for the WBMDTCL/added respondent no.7 herein.

14. It is further submitted by the learned advocates for the State and WBMDTCL that Rule 62 of the said Rules of 2016 cannot cure the delay and laches as committed by the writ petitioner in view of the fact that the said Rules of 2002 has already been repealed and as per the said Rules of 2016 of lease are granted by way of open auction.
15. It is thus submitted on behalf of the State as well as on behalf of the WBMTDCL that the instant writ petition is liable to be rejected.
16. On careful consideration of the entire materials as placed before this court and after hearing of learned advocates of the contending parties, this court considers that for effective adjudication of the instant lease, the provisions of Rule 62 of the said Rules of 2016 is required to be looked into and the same is quoted hereinbelow;

“62. Repeal.-(1) The West Bengal Minor Mineral Rules, 2002, is hereby repealed.

(2) Notwithstanding such repeal, anything done, any action taken, or any prosecution started under the said rules, shall be deemed to have been validly done or taken or started, as the case may be, under the corresponding provisions of these rules.”

17. On perusal of Rule 62 of the said Rules, it reveals that Rule 62 deals with the repealing clause. It mandates that after coming into force of the said Rules of 2016, the said Rules of 2002 stood repealed. Rule 62(2) is the

saving clause which indicates that notwithstanding the repealing of the said Rules of 2022 anything done, any action taken or any prosecution started under the said Rules of 2002, shall be deemed to have been validly done or taken or started under the corresponding provisions of the said Rules of 2002.

18. Keeping in mind of the proposition of law as enunciated in Rule 62 of the said Rule of 2016, if I look to the factual aspects of this case, it appears to this court that had it been such a case that immediately after the execution of the deed of lease by the respondent/State, the said Rules of 2002 stood repealed, the action on the part of the State regarding execution of the deed lease stood saved so as to enable the writ petitioner to get the same registered with the registering authority.

19. Unfortunately, the same did not occur here. From page 17 of the instant writ petitioner being a copy of the memo dated June 9, 2015, it reveals that for the second time, the relevant executed deed of lease dated March 19, 2015 was forwarded to the writ petitioner for presentation of the same before the registering authority for registration.

20. Admittedly, the said executed deed of lease was not presented for registration within the stipulated time as mentioned under Section 23 of the Registration Act, 1908 for the reasons best known to the writ petitioner. It reveals that the said Rules of 2016 was brought into

effect by a notification dated July 29, 2016 and the on the same day, the said Rules of 2002 was repealed.

21. Such being the position, this court has got no hesitation to hold that the repealing clause of 2016 that is Rule 26 cannot save the action of the parties to the instant writ petition as has been done pursuant to repealed Rules of 2002.
22. In view of such legal bar, this court is of the considered view that the present writ petitioner is not entitled to get the relief/reliefs as prayed for.
23. With the aforementioned observation, WPA 11010 of 2025 is dismissed.
24. However, there shall be no order as to costs.
25. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)