

08.01.2025
Item No.43
RP
Ct. No.07

WPA 13169 of 2022

Ashok Khamri
Vs.
State of West Bengal & Ors.

Mr. Rahul Karmakar

....For Petitioner

Mr. Sanjay Saha

....for WBMDTC

1. Affidavit-of-service filed in Court today be kept on record. In spite of notice none appears for the State. The 7th respondent is represented by its learned advocate.
2. The petitioner has challenged the Government Order dated February 28, 2022 in this writ petition. The petitioner claims that a registered lease deed dated April 6, 2017 was executed in favour of the petitioner with respect to plot no. MGB 46 within mouza-Bhatpara in the Subarnarekha Riverbed, P.S.-Gopiballavpur II, District-Jhargam. By virtue of the said lease, petitioner was given the right to excavate sand from the said property. The lease deed was registered on 6th April, 2017 and the same was valid for the period of five years from the date of registration. The petitioner claims that on account of COVID-19 pandemic certain restrictions were imposed for carrying out the mining activities, as a

result of which the petitioner suffered loss as the said property could not be utilized for a period of about twenty months.

3. Mr. Karmakar, learned advocate appearing for the petitioner placed reliance upon notification dated January 18, 2021 which was published in the Gazette of India (Extra-ordinary) by the Ministry of Environment, Forest and Climate Change in support of his contention that the period from April 1, 2020 to 31st March, 2021 shall not be considered for the purpose of calculation of the period of validity of the said lease period. He further placed reliance upon Clause 5 under Part-IX of the said lease deed which deals with "Force Majeure" clause in support of his contention that on account of COVID-19 pandemic the period of delay should be added to the period fixed under the said lease deed. He further submits that though the petitioner submitted a representation praying for extension of the lease period well before expiry of the said lease period, such prayer was not considered by the respondent authorities. He further submits that the Government Order dated 28th February, 2022 puts an embargo upon the authorities to consider the prayer for extension of the lease period.
4. Heard the learned advocate appearing for the 7th respondent on such submission.

5. None appears for the State.
6. The Government Order dated 28th February, 2022 was issued by the Government of West Bengal, Department of Industry, Commerce and Enterprise (Mines Branch) in order to facilitate the transition into the new framework in a smooth manner by extending the validity of lease expiring till April 2022 for a certain period of time and it was decided that all sand mining lease expiring till April 2022 be extended till 31st May, 2022. The purpose and object of the Government Order 28th February, 2022 as it appears from bare reading of the same is only to facilitate implementation of the new sand mining policy 2021 and the same has nothing to do with regard to the prayer for extension of the lease made by the petitioner by invoking the ‘Force Majeure’ clause in the lease deed.
7. The prayer for extension of the lease submitted by the petitioner by a representation dated 11th January, 2022 before the Additional District Magistrate and District Land and Land Reforms Officer, Jhargram is still pending for consideration.
8. In view thereof, this Court directs the Additional District Magistrate and the District Land and Land Reforms Officer, being the 6th respondent, to consider the representation of the petitioner dated 11th January, 2022 for extension of the lease period on

the ground as stated in the said representation and to dispose of the same by passing a reasoned order after affording an opportunity of hearing to the petitioner or his authorized representative. The reasoned order shall be communicated to the petitioner immediately. The entire exercise shall be completed within a period of four weeks from the date of receipt of the server copy of this order along with a copy of the representation dated 11th January, 2022 which is appearing at page 59 of the writ petition. It would be open to the petitioner to place reliance upon any notification, government order etc. in support of his case for extension of the lease period at the time of hearing before such authority.

9. With the aforesaid observation and direction, the writ petition stands disposed of.
10. There shall, however, be no order as to costs.
11. Urgent Photostat copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)