

(2012) 02 DEL CK 0472
In the Delhi High Court
Case No : LPA 153 of 2012

B.R. Surendranath Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 24-02-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Mineral Concession Rules, 1960 — Rule 24A, 24A(1), 24A(10), 28

Citation : (2012) 02 DEL CK 0472

Hon'ble Judges : A.K. Sikri, Acting C.J.;Rajiv Sahai Endlaw, J

Bench : Division Bench

Advocate : Krishnan Venugopal with Mr. A. Raghunath, for the Appellant; Neeraj Chaudhari, CGSC and Mr. Akshay Chandra, for UOI, for the Respondent

Judgement

A.K. Sikri, Acting Chief Justice

1. The admitted facts are, that a mining lease of 150 acres in Tumkur District, Karnataka was granted on 17.05.1976 for a period of ten years to one Smt. Kamla Bai predecessor of the appellant; the term of the said mining lease expired on 17.05.1986; application for renewal of the said mining lease was filed only on 28th September, 1993 i.e. after nearly seven years of the expiry of the term of the lease. The reason given for the delay in applying for renewal was that said Smt. Kamla Bai had suffered paralytic stroke and therefore had become incapacitated since 6/7 years prior to the expiry of the mining lease and could file the application for renewal only on 28th September, 1993. The said application was rejected by the State Government vide order dated 30.01.2010 holding that the application for renewal filed on 28.09.1993 was invalid and there was no provision under the Rules for condonation of delay if application for renewal was made after expiry of the lease period. Aggrieved therefrom a Statutory Revision was preferred to the Central Government which has also been dismissed vide order dated 28.06.2011 observing that the application for renewal filed after lapse of seven years was in contravention of Rule 24A(1) of the Mineral

Concession Rules, 1960 and there was no illegality in the order of the State Government. The learned Single Judge has dismissed W.P.(C) No. 8685/2011 preferred by the appellant observing as under:

The reason given by the petitioner for not making the application earlier is that the lessee was incapacitated for a period of 6-7 years prior to the expiry of the mining lease. This clearly shows that the lessee herself was not operating the lease and it was operated by her family members and associates. The said reason for not making the renewal application, therefore, in any case does not appear to be convincing. The application was not made even after the amendment of Rule 24A(1) in the year 1987. There is gross delay in making of the application.

Consequently, I am not inclined to interfere with the impugned order in exercise of the discretionary jurisdiction of this Court under Article 226 of the Constitution to interfere with the order passed by the Mines Tribunal, rejecting the petitioner's revision against the order of the State Government, whereby the application seeking condonation of delay has been rejected.

Dismissed.

2. The contention of the senior counsel for the appellant before us is that the State Government as well as the Central Government erred in holding that the application for renewal filed on 28.09.1993 was invalid or that there was no power to condone the delay. It is argued that at the time when the lease expired in the year 1986 as well as on 28.09.1993 when renewal was applied for, under Rule 24A(10) and till the amendment thereof in the year 2000, the power of the State Government to condone the delay was unfettered; that it is only by virtue of the amendment of the year 2000 that the discretion for condoning the delay beyond expiry of the term of the lease has been taken away. It is further urged that the Rule as it stood at the time of the making of the application on 28.09.1993 should have been applied and as per which the State Government was empowered to condone the delay. It is argued that the learned Single Judge has failed to deal with the said aspect.

3. The aforesaid argument ignores Rule 24(A) itself was inserted vide amendment dated 10.02.1987. Thus at the time when the mining lease in the instant case expired on 17.05.1986, the same did not exist. Prior to insertion of Rule 24(A) w.e.f. 10.02.1987, Rule 28 provided for renewal, on an application to the State Government at least one year before the expiry of the mining lease. The Supreme Court in Kangra Valley State Co., Ltd. Vs. State of Punjab and Others, held that the time stipulated in Rule 28 was mandatory and did not permit condonation of delay in applying for renewal.

4. The appellant admittedly did not apply for renewal before the expiry of the lease on 17.05.1986 and as per the law then in force, lost the right of renewal. We are constrained to observe that though the appellant has sought to take advantage of the amendment in the Rules of the year 2000 but has chosen to

gloss over the position as prevailing at the time of expiry of the term of the lease in the instant case.

5. In that view of the matter, the argument raised before us has no merit. Similarly, the argument that in other cases delay has been condoned, cannot be accepted in the face of the aforesaid statutory provision and in the absence of detailed pleadings of the cases where the delay in applying for renewal has been condoned.

6. We also find that the learned Single Judge has considered the case of the appellant for renewal on merits but not found any justifiable explanation for submitting the application for renewal after long delay of seven years. It is indeed incomprehensible as to why, whosoever was operating the lease on behalf of the Smt. Kamla Bai could not have applied for renewal. Not only so, even after applying for renewal, the appellant has not shown any haste. It appears that Smt. Kamla Bai had in or about the year 1999 filed a writ petition in the High Court of Karnataka seeking a direction for consideration of her application dated 28.09.1993 for renewal. The said writ petition was disposed of on 01.10.1999, directing the State Government to consider the application for renewal. There is however no explanation as to why the application was even thereafter allowed to remain languishing for another 10 years till its dismissal on 30.01.2010. Smt. Kamla Bai is stated to have died only in the year 2004. From the said facts also, it is quite clear that the appellant and his predecessor have slept over their rights if any of renewal.

7. We are even otherwise of the opinion that now after 25 years of the expiry of the lease, it will not be proper to direct renewal of the mining lease. We are thus not inclined to interfere with such an order passed by the learned Single Judge. Dismissed.