
(2020) 10 SHI CK 0342
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 3528 Of 2020

Gopal Chand

APPELLANT

Vs

State Of H.P. & Others

RESPONDENT

Date of Decision : 07-10-2020

Acts Referred:

Citation : (2020) 10 SHI CK 0342

Hon'ble Judges : Sureshwar Thakur, J;Chander Bhusan Barowalia, J

Bench : Division Bench

Advocate : Varun Chandel, Hemant Vaid, Ashwani Sharma, J. S. Guleria

Final Decision : Disposed Of

Judgement

Sureshwar Thakur, J

1. The petitioner applied for grant, of, mining lease, vis-a-vis, the writ khasra numbers, hence, under the Mines= and Mineral Concession Rules. A perusal of Annexure P-7, appended with the writ petition, discloses vis-a-vis, the writ petitioner acquiring, a, right of lease, upon, khasra numbers 559/186, 560/186, 185, 638/ 613/ 590/ 188 / 13 ,589/ 477/ 188, 635/ 613/ 590/188. However, a further perusal thereof discloses, vis-a-vis, the Girdawar Kanoongo concerned, being directed to, after carrying out the apposite demarcation, hence fix the boundaries, of, the afore khasra numbers.

2. The respondents placed before this Court, a communication, emanating from the Assistant Collector, 1st Grade, Tehsil Paonta Sahib, District Sirmour, H.P. wherein it becomes articulated, vis-a-vis, a lis, hence appertaining to correction of revenue entries hence being subjudice, before the afore Assistant Collector, 1st Grade, and, its disposal owing to prevalence, of, Covid-19 pandemic, rather likely to consume some time.

3. As aforestated, since in Annexure P-7 disclosures occur, vis-a-vis, a reference being made, to, the Girdawar Kanoongo, to conduct demarcation, of, the lease

khasra numbers, and, also to fix boundaries thereof, (i) and, thereupon unless the afore exercise becomes completed, rather, thereupto even if the apposite affirmative recommendations, qua the petitioner's espousal, are, made by the authorities concerned, yet, the afore affirmative recommendations, as, made by the authorities concerned, hence not equipping the counsel of the petitioner, to, make any submission before this Court, that, the apposite recommendations, be directed, to be acted upon, through, a, mandamus being issued, upon, the respondents, for, therethrough a, mining lease, under, the Mines and Minerals Concession Rules, being granted to him, as, (i) the grievance ventilated by the petitioner, in, CWP No. 2780 of 2018, inasmuch, as, joint khasra number(s), hence bearing khasra numbers 638/613/590/188, becoming sorted through carving(s) therefrom, of, tatima(s), khasra numbers, became accorded, through, an affirmative order made thereon, (ii) and, when Annexure P-4, as, appended with the letter, addressed, to, the learned Advocate General, by, the Assistant Collector, 1st Grade, unfolds, vis-a-vis, the latter being thereafter hence seized with a subjudice lis before him, and appertaining to the afore resolution, hence appertaining, to, carving of new tatima numbers, from, joint khasra numbers, 638/613/590/188, as, all the afore khasra numbers, appear to be borne, in an undivided khata, or, are in joint ownership along with other co- owners, or, under lease hold(s), of, the lessees' concerned, (iii) In aftermath, upto the Assistant Collector, 1st Grade, Paonta Sahib, upon, a, remand order, qua him, hence made by the Deputy Commissioner, Sirmour, upon, case No. 1/10 of 2019, makes a fresh decision thereon, in accordance with law, (iv) thereupto, for, wants of the afore emergence(s), of, affirmative resolution(s) appertaining, to carving out, of, new tatima(s), of, the khasra numbers concerned, hence the afore undivided status, of, apposite khasra numbers, would subsist, and, concomitantly operate, as, an obstacle, for, rendition, of, any mandamus, upon, the respondents, qua, theirs granting a mining lease, qua the writ property, under, the relevant rules, and, vis-a-vis, the writ petitioner. However, since the Collector Sirmour after accepting appeal No. 1/10, of, 2019, preferred therebefore, hence ordering for its remand, qua, the Assistant Collector concerned, for, enabling the latter, to decide the original lis afresh, in accordance with law, hence, with the afore order of remand, occurring on 4.10.2019, (v) obviously with more than an year elapsing, since making, of, the afore order of remand, upon, the remandee Court, (vi) thereupon the remandee court, is, directed to positively, within three months from today, after affording an opportunity of hearing, to, all the litigants concerned, make a decision upon case No. 41, of, 2018, in accordance with law. Furthermore, it is also directed, that, thereafter the Field Kanoongo concerned, shall, in consonance with the orders, passed by the Assistant Collector, 1st Grade, upon, case No. 41 of 2018, shall carve out fresh tatima(s), from, the aforestated khasra numbers. In addition, it is also directed that thereafter, the affirmative recommendations, as, made by the Joint Inspection Committee concerned, vis-a-vis, the petitioner, shall be borne in mind, by the respondents concerned, in theirs, in accordance with law, hence, granting mining lease, under, the Mines and Minerals Concession Rules, vis-a-vis, the petitioner.

4. With the afore directions, the extant writ petition stands disposed of. All pending applications, if any, also stand disposed of.