

(2011) 04 AHC CK 0500
In the Allahabad High Court
Case No : C.M.W.P. No. 23511 of 2011

Hemant Kumar Mishra

APPELLANT

Vs

Collector, Fatehpur and Another

RESPONDENT

Date of Decision : 22-04-2011

Acts Referred:

Uttar Pradesh Minor Minerals Concession Rules, 1963 — Rule 67

Citation : (2012) 1 AWC 495 : (2011) 8 RCR(Civil) 2919

Hon'ble Judges : Satya Poot Mehrotra, J;S.C. Agarwal, J

Bench : Division Bench

Judgement

Satya Poot Mehrotra and S. C. Agarwal, JJ.—The petitioner, claiming himself to be co-tenant of the land in question, has moved an Application dated 25.1.2011 before the Collector, Fatehpur (respondent No. 1) for grant of permit for excavating Morram from the land in question. Copy of the said application has been filed as Annexure-4 to the writ petition.

2. Further prayer is made in the said application that the Mining Lease, if any, in respect of the land in question be granted only after obtaining prior consent of the petitioner, and payment of compensation, as per the provisions contained in Rule 67 of the U. P. Minor Minerals (Concession) Rules, 1963.

3. As no action has so far been taken on the said application submitted by the petitioner before the Collector, Fatehpur (respondent No. 1), the present writ petition has been filed, inter alia, praying for directing the Collector, Fatehpur (respondent No. 1) to consider and decide the said application dated 25.1.2011 (Annexure-4 to the writ petition).

4. We have heard Sri P. K. Misra, learned counsel for the petitioner and the learned standing counsel appearing for the respondent Nos. 1 and 2.

5. Having regard to the nature of controversy involved in the present writ petition and keeping in view the order proposed to be passed in the present writ petition, we are of the view that no useful purpose would be served by calling

counter-affidavit on behalf of the respondents.

6. Accordingly, the writ petition is disposed of with the direction to the Collector, Fathepur (respondent No. 1) to take appropriate decision on the said application dated 25.1.2011 (Annexure-4 to the writ petition) filed by the petitioner by passing a speaking order after giving reasonable opportunity of hearing to the petitioner. Such decision will be taken expeditiously, preferably within a period of six weeks from the date on which the petitioner submits a certified copy of this order alongwith copy of the said application dated 25.1.2011 (Annexure-4 to the writ petition) before the Collector, Fathepur (respondent No. 1).

7. It is made clear that we have not adjudicated the claim of the petitioner on merits.