

(2009) 02 JH CK 0038
In the Jharkhand High Court

Md. Tanweer Alam Ansari

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 12-02-2009

Acts Referred:

Citation : (2009) 2 JCR 292

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Judgement

D.N. Patel, J.—The present petition has been preferred mainly for the reason that there is a revocation of lease which was initially given to the petitioner for approximately about 10 years and when petitioner applied for renewal of the lease which was granted vide order dated 8th June, 2007 (Annexure-2).

2. Learned Counsel appearing for the respondents submitted that L.P.A. No. 774 of 2000 and some P.I.L. have been preferred before this Court, but he has not having number of that P.I.Ls. Therefore, as per submission made by the learned Counsel for the respondents, the lease which was renewed by the petitioner was revoked vide order dated 12th May, 2008 (Annexure-3).

3. Looking to the facts and circumstances of the case, learned Counsel for the respondents could not point out any provision of law whereby the order at Annexure-3 is passed.

4. There is no provision under law that whenever any matter is pending before this Court, the lease which is otherwise renewable cannot be renewed or if it is renewed it can be revoked.

5. Learned Counsel appearing for the respondents is unable to point out the stage of the P.I.L. or in the L.P.A., nor its number is pointed out to this Court nor the law point involved therein if any, is pointed out to this Court and similarly order dated 12th May, 2008 (Annexure-3) is also silent about the pendency of L.P.A. as well as P.I.L.. Even if such matters are pending, they have not been decided, against the petitioner nor the petitioner is party thereto. No law has

been raid down about non renewal of lease for a Raiyati land and, therefore, the reasons stated in the order Annexure-3 is absolutely arbitrary and de hors the provisions of law.

6. Looking to the facts and circumstances of the present case initially first lease was given in May, 1997 for the period of ten years thereafter there was a renewal of the lease vide Annexure-2 dated 8th June, 2007 and after approximately one year, the order at Annexure-3 has been passed merely on the ground of pendency of some litigation before the High Court.

7. Pendency of some matter can not be a reason for cancellation of the renewed lease. Therefore, I hereby quashed and set aside the order passed in Annexure-3 dated 12th of May, 2008 revoking the renewal of the lease. According, this writ petition is allowed. Petitioner is not heard before passing order at Annexure-3. There is breach of principles of natural justice.

8. Leaned counsel appearing for the respondents submitted that there is a provision of preferring revision under Jharkhand Minor Mineral Concessions Rules, 2004 and therefore the petition is not tenable. This contention is not accepted by this Court mainly for the reason that there is violation of principles of natural justice before passing order at Annexure-3. Petitioner has not been heard which is bare a minimum requirements as per the principles of natural justice and once there is violation of fundamental rights, the writ petition is always maintainable.