

(2012) 08 UK CK 0015

In the Uttarakhand High Court

Case No : CLMA No. 8685 of 2012 in WPMS No. 1398 of 2012

M/s. Uttaranchal Associates

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 24-08-2012

Acts Referred:

Citation : (2012) 3 UC 1724

Hon'ble Judges : V.K. Bist, J

Bench : Single Bench

Advocate : Dushyant Mainali, for the Appellant; Rajesh Sharma, Brief Holder for the State, for the Respondent

Judgement

V.K. Bist, J.—Civil Misc. application No. 8685 of 2012 has been filed by the petitioner with a prayer to clarify the order dated 09.07.2012 passed by this court in WPMS No. 1398 of 2012 and that the respondents may be restrained from levying the transit fees twice while lifting the boulders/RBM from the storage point to elsewhere in case the transit fees had already been paid by the petitioner. By a perusal of the interim order dated 09.07.2012 passed by this Court on Interim Relief Appl. No. 6794 of 2012, it shows that in view of the Division Bench Judgment of this Court dated 01.07.2004 passed in WPMB No. 1124 of 2001, M/s. Kumaon Stone Crusher Vs. State of U.P. and others, the respondents were restrained from realizing the transit fees twice, on which the petitioner had already paid the transit fee for the boulders lifted from forest area.

2. The petitioner had already paid the transit fees when the minor minerals including the boulders were lifted from the forest area to the storage places, but again without any authority of law, the respondents is demanding transit fees for shifting of the said material from storage point to elsewhere.

3. In view of the decision of the Division Bench of this Court dated 01.07.2004. Passed in Writ Petition No. 1124 of 2001 (M/B), the transit fees cannot be charged twice. Therefore, if the petitioner had already paid transit fees when the

boulders were lifted from the forest area to the storage places, in that event the respondents are directed not to charge transit fees, when the boulders are lifted from the storage point to elsewhere except the forest area.

4. The clarification/modification application is allowed and the order is modified accordingly. List the matter after four weeks. A certified copy of the order be issued to the learned counsel for the petitioner on payment of usual charges by 27th August, 2012.