
(2014) 11 JH CK 0003
In the Jharkhand High Court
Case No : W.P.(C) No. 2992 of 2013

Sunil Kumar Chourasia

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 19-11-2014

Acts Referred:

Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 — Section 90
Consumer Protection Act, 1986 — Section 24-A
Limitation Act, 1963 — Section 17(1)(c), 5

Citation : (2015) 2 AJR 53 : (2015) 144 FLR 159 : (2015) 5 FLT 159 : (2015) 1 JLJR 248

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Prashant Pallav, Advocates for the Appellant

Judgement

S. Chandrashekhar, J.—Seeking quashing of order dated 12.1.2010 in Revision. Case No. 86 of 2009 passed by the Mines Commissioner, Jharkhand and order dated 8.10.2009 passed by the District Mining Officer, Deoghar whereby the prayer for renewal of lease has been rejected and with a further prayer seeking direction upon the respondent-authority to renew the lease in favour of the petitioner, the present writ petition has been filed. The brief facts of the case are that, on an application submitted by the petitioner in the year, 1999 in prescribed form, for grant of mining lease, an enquiry was conducted by the Halka Karamchari and Circle Officer and the said report was forwarded to the District Mining Officer, Deoghar vide Memo dated 3.2.1999. After due diligence, lease with respect to 5 acres of land in Plot No. 74/P and Plot No. 75 in Jamabandi No. 13 within Mauza-Surya, P.S.-Mohanpur, District-Deoghar for stone quarrying, was granted in favour of the petitioner and a lease deed was registered on 10.6.1999 for a period of 10 years with right to renewal for consideration of Rs. 15,000/- as security besides, usual rent and royalty. In November, 2003, the Government of Jharkhand decided to hand over 17 acres of land under Plot No. 74/P and Plot

No. 75 within Surya Mauza to Navodaya Vidyalaya Samiti. When a substantial portion of the lease hold land was encroached by the Navodaya Vidyalaya, the petitioner filed a complaint before the Deputy Commissioner, Deoghar who ordered an enquiry by the Circle Officer. The petitioner filed a complaint in the Court of Chief Judicial Magistrate, Deoghar on 14.9.2005. The Circle Officer, in his report found 1.87 acre of land encroached by the Navodaya Vidyalaya. In the meantime, the petitioner fell ill and he was confined to bed and therefore, he could not make application for renewal of mining lease within the stipulated time. A delay of 216 days in submission of renewal application thus occurred due to reasons beyond the control of the petitioner. The petitioner submitted the application for renewal of mining lease on 16.10.2009 along with all requisite documents under Rule 23 of the Jharkhand Minor Mineral Concessions Rules, 2004. The District Mining Officer, however, without issuing any notice or without affording an opportunity of hearing, rejected the renewal application and directed the petitioner to hand over the lease hold area on 15.10.2009. Aggrieved, the petitioner preferred Revision Case No. 86 of 2009 which was also dismissed vide order dated 12.1.2010.

2. Mr. Prashant Pallav, the learned counsel appearing for the petitioner submits that the delay of 216 days in submitting the renewal application occurred due to reasons beyond the control of the petitioner. Had the petitioner been given opportunity of hearing, he would have shown sufficient cause for condonation of delay. It is further submitted that Section 5 of the Limitation Act is applicable to Mines and Minerals (Development and Regulation) Act, 1957 and Jharkhand Minor Mineral Concessions Rules, 2004 and therefore, the delay in submitting the renewal application should have been condoned. The Revisional Authority though noticed the medical certificate, the veracity of which has not been doubted nonetheless, the Revision Case No. 86 of 2009 has been dismissed on the ground of casual-ness of the petitioner. The learned counsel has relied on a decision of Hon"ble Supreme Court in Mangu Ram Vs. Municipal Corporation of Delhi, .

3. Before advertng to the challenge to the impugned orders, it is necessary to examine whether the statutory authority under the Jharkhand Minor Mineral Concessions Rules, 2004 has power to condone the delay in filing renewal application. In a catena of judgments, it has been held that in the absence of enabling provision, there is no inherent power in the administrative authority/ statutory authority to condone the delay in filing proceedings or making application. The District Mining Officer before whom the application for grant of renewal is made, is not a "Court" nor the Revisional Authority before whom the Revision Case was filed by the petitioner. Even if the authorities constituted under the Jharkhand Minor Mineral Concessions Rules, 2004 are deemed to be "Court", those are created for limited and specific purposes. Inherent power to condone the delay cannot be presumed in a Court/authority, unless the law warrants and permits it.

4. In Sakuru Vs. Tanaji, , while considering the question as to whether the

Collector who was the appellate authority under Section 90 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950, was "Court" and whether the Limitation Act, 1963 would apply in the appeals filed before the appellate authority, the Hon"ble Supreme Court held that Section 5 of the Limitation Act would not apply in the proceeding before the Collector. In *Birla Cement Works Vs. G.M., Western Railways, and another*, , the issue was whether the Railways Claims Tribunal constituted under Section 78-B of the Railways Act, 1890, was a Civil Court and whether Section 17(1)(c) of the Limitation Act, 1963 had any application, the Hon"ble Supreme Court answered the issue in negative. In *Mr. France B. Martins and Another Vs. Mrs. Mafalda Maria Teresa Rodrigues*, , a case which was decided on the basis of Consumer Protection Act, as it stood prior to the amendments affected by insertion of Section 24-A, the Hon"ble Supreme Court held that the complaint filed under the said Act was neither a suit nor an application within the meaning of Limitation Act, 1963 and thus, the Limitation Act had no application.

5. In the present case, the District Mining Officer as well as Mines Commissioner are statutory authorities and the scheme of the Jharkhand Minor Mineral Concessions Rules, 2004 does not indicate that these authorities have been vested with the power to condone the delay. In the absence of a provision analogous to Section 5 of the Limitation Act, the renewal application submitted by the petitioner, beyond the period of Limitation, has rightly been not entertained by the District Mining Officer. I find no error in the orders impugned in the present proceeding and accordingly, the writ petition is dismissed.