
(2009) 11 OHC CK 0016
In the Orissa High Court

Suresh Chandra Padhee

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 18-11-2009

Acts Referred:

Citation : (2010) 109 CLT 569 : (2003) OLR 1 Supp

Hon'ble Judges : I.M. Quddusi, Acting C.J.; Sanju Panda, J

Bench : Division Bench

Judgement

Sanju Panda, J.—In this writ application the Petitioner has prayed for execution of the required lease deed & issuance of necessary transit permit for movement of iron ore raised at the mines site.

2. The facts leading to this writ application are as follows:

In the year 1962, the Petitioner got a mining lease of iron & manganese ore in Village-Banspani in the Champua Sub-Division of Keonjhar district, Orissa. As per the land schedule described in the lease deed, the area of the said mining lease is measuring Ac.103.0/41.6826 hectares of non-forest tenanted land. The Petitioner was continuing mining operation over the granted area. He filed a renewal application after expiry of 20 years. Pending consideration & approval of the renewal application, regular permission was granted by the Deputy Director of Mines, Joda in favour of the Petitioner to continue the mining operation.

3. While the matter stood thus, the State Government in Department of Steel & Mines issued a letter dated 3.3.2000 asking the Petitioner to accept the terms & conditions for grant of renewal order for a further period of 20 years with effect from 27.11.1993. Accordingly, the Petitioner submitted his consent. After receipt of the same, the State Government granted renewal of the lease by order No. 3401 dated 4.4.2000 (Annexure-4). In the said renewal grant order, it was made clear that the mining lease was granted in respect of the reduced area over 37.868 hectares of non-forest land in village Banspani. On 27.6.2002, the Deputy Director of Mines issued a letter to the Petitioner for survey & demarcation of the

granted RML area of 37.368 hectares of non-forest land. The Petitioner was present with all papers for necessary survey. After preparation of the survey & demarcation of the granted RML area, the Deputy Director of Mines issued a letter on 25.7.2002 to the Collector, Keonjhar & recommended that the granted area did not include forest area. Therefore, necessary renewal of mining lease might be executed with the Petitioner. The Collector-cum-District Magistrate, Keonjhar after receipt of the letter from the Deputy Director of Mines, issued a letter on 1.8.2002 to the Petitioner to deposit a sum of Rs. 10,000 towards security money in shape of postal savings bank account duly pledged the same in favour of the Collector, Keonjhar. The Petitioner complied with the same & opened a savings bank account of Rs. 10,000 at Keonjhar Post Office & July pledged in favour of the Collector, Keonjhar with intimation & acknowledgment dated 1.10.2002 & waited for execution of the regular lease deed in Form-"K". In spite of all the above steps taken by the Petitioner, the District Collector, Keonjhar did not execute the necessary renewal lease deed. While the matter stood thus, on 7.4.2006, the Petitioner received a letter from the Deputy Director of Mines to stop mining operation without any reason. Therefore, the Petitioner approached this Court by filing W.P.(C) No. 8851 of 2006. This Court, vide Order Dated 11.7.2006 disposed of the said writ application with the following direction:

Without expressing any opinion on the aforesaid contention of the Learned Counsel for the Petitioner, we dispose of this Writ Petitioner with a direction that if the Petitioner operates his mines leased out to him, within the term of lease & in non-forest areas in accordance with law, his mining activities shall not be interfered with by any body. On the other hand, if the Petitioner conducts any mining activities in a forest area or after expiry of the term of lease, it shall remain open to the authorities to take such steps against the Petitioner in accordance with law as they may deem fit & proper including the directions contemplated under said notice dated 7.4.2006 under Annexure-1 to the Writ Petitioner.

4. Accordingly, the Petitioner was allowed to operate the mines. However, the Deputy Director of Mines did not issue any transit permit for movement of the iron ore raised at the mines site. Therefore, the Petitioner submitted the required application in Form- "J" vide letters dated 18.9.2008 & 12.12.2008 for grant of necessary permit. But the Deputy Director of Mines did not issue the necessary permit. Therefore, the Petitioner approached this Court by filing the instant writ application.

5. The Opp. Parties filed their counter stating therein that admittedly the mining lease of iron & manganese ore was granted in favour of the Petitioner for a period of 20 years & the leasehold area was considered as non-forest tenanted area at the time when the lease was granted. Subsequently, the lease was renewed for a period of 20 years from 29.11.1973 to 28.11.1993. The renewal was granted . excluding the forest land. Thereafter, the lessee was personally heard by issuing notice dated 12.5.1995. On 26.6.1995, the Petitioner submitted

the approved mining plan. Thereafter, from 4.4.2000 the second renewal mining lease was granted in favour of the Petitioner for another period of 20 years over an area of 37.868 hectares of non-forest land. But before execution of the lease deed, the Collector vide his letter dated 18.12.2002 intimated the Secretary, Steel & Mines Department to allow for execution of the renewal mining lease deed taking into consideration the DLC reported area. By letter dated 17.3.2003, the State Government requested the Collector, Keonjhar to advise the lessee-Petitioner to take necessary steps for submission of diversion proposal & obtain approval under Forest (Conservation) Act, 1980 from the Ministry of Environment & Forest, Government of India. The Petitioner requested the Deputy Director of Mines to supply the revised boundary description of the leasehold area, survey map with details of DLC area for submission of diversion proposal & mining scheme to obtain the forest clearance. He further requested vide letter dated 26.6.2008 to supply the aforesaid documents & Topo Sheet duly authenticated & the certification of District Legai Committee (DLC) in respect of 32.667 hectares for the purpose of submission of diversion proposal. After receipt of the said letters from the Petitioner, the Deputy Director of Mines supplied two numbers of authenticated Topo Sheets along with copy of the revised lease plan, boundary description & land schedule duly approved by the Director of Mines along with the details of the DCL area. He also requested him to make a programme for joint verification of forest area already used earlier prior to 1980 as per the DLC report dated 20.12.2008. The Opp. parties stated that the Petitioner had not filed the application in Form- "J" for grant of necessary permit.

6. Considering the above facts & circumstances of the case, since the Opp. Parties have already requested the Petitioner for a joint verification of the forest area already used earlier prior to 1980 as per the DLC report & demarcation of the leasehold area, this Court without going, into the merits of the case directs the Opp. Parties to take steps for a joint verification as early as possible, preferably within a period 2 months from the date of disposal of this writ application & proceed with the matter in accordance with law.

With the above observation this writ application is disposed of.

I.M. Quddusi, A.C.J.

I agree