



ORISSA HIGH COURT : CUTTACK

AFR

W.P.(C) No.6073 of 2026

In the matter of an Application under
Articles 226 and 227 of the Constitution of India, 1950

* * *

Sri Birat Chandra Dagara

Aged about 82 years

Son of Late Bishikesan Dagara

Mining Lessee

At: Ward No. 15, At/P.O.: Rairangpur

Town/District: Mayurbhanj, Odisha

Represented through his constituted

Power of Attorney

Sri Biswajaya Dagara

aged about 50 years

Son of Birat Chandra Dagara

At present residing

At: Plot No. 20, Saheed Nagar

Bhubaneswar, District: Khordha

Odisha – 751 007.

...

Petitioner

-VERSUS-

- 1.** State Government of Odisha
Represented through
The Additional Chief Secretary to Government
Department of Steel and Mines
Lok Seva Bhawan, Sachivalaya Marg
Bhubaneswar, Pin: 751 001
District: Khordha, Odisha.



2. The Director of Mines & Geology
Heads of Department Building
Unit-V, Bhubaneswar – 751 001
District: Khordha, Odisha.

3. The Deputy Director of Mines
Baripada Circle, Baripada
At/P.O.: Baripada
District: Mayurbhanj – 757 002
Odisha.

... Opposite parties.

Counsel appeared for the parties:

For the Petitioner : M/s. Sudarshan Nanda
Shishir Kumar Routray,
Lalitendu Mohapatra,
Padmanav Nayak,
Sandeep Pattnaik, Advocates.

For the Opposite parties : Mr. Pitambar Acharya,
Advocate General
Ms. Aishwarya Dash,
Additional Standing Counsel.

P R E S E N T:

**HONOURABLE CHIEF JUSTICE
MR. HARISH TANDON**

AND

**HONOURABLE JUSTICE
MR. MURAHARI SRI RAMAN**

Date of Hearing : 14.05.2026 :: Date of Judgment : 30.06.2026

JUDGMENT



MURAHARI SRI RAMAN, J.—

The petitioner, a lessee with respect to mining of iron ore, craves for exercise of extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India to issue writ of *mandamus* to the opposite parties to allow the lessee to enjoy the property beyond the validity period stipulated in the supplementary lease deed by adding period lost in not being able to operate the mines and extend the validity period till 23.05.2026 by taking into consideration the commencement of lease period with effect from 24.05.1976, *i.e.*, the date of registration of the lease deed and, therefore, he beseeches for grant of following relief(s):

“It is, therefore, prayed that the Hon’ble Court may graciously be pleased to admit this Writ Petition, a writ of or in the nature of mandamus commanding upon and directing the State-Respondent to treat the lease period of the lessee in respect of Suleipat Iron Ore Mines located in Revenue Villages Hatisikly, Nangalsila, Murumdihi, Khandadera, Karanjharan Hill, Burudihi, Paharbhanga, Tiakati, and Bhitarmunda Hill, Tehasil Badampahar, District: Mayurbhanj, Odisha, covering an area of 618 hectares valid up to 23.05.2026, which is fifty years from the date of execution of the lease deed in respect of the said mines;

*And directing the State Government to extend the lease for a further period of twenty months *i.e.* 6 months as considering the lease date from the date of duly registered of the lease deed and fourteen months as inaction of the*



Government authorities, for which period the lessee-petitioner could not operate the mines due to the negligence/lapses/laches and inaction on the part of the opposite parties State Government;

And directing the State Government to allow the petitioner to operate the subject mines up to a period ending on 24.06.2027 and during the said period, issue all required challans/permits to operate the mines, subject to the lessee abiding by and complying with all required statutory clearances/approvals and permits;

And pass any appropriate order/orders, direction/directions as deemed fit and proper in the facts and circumstances of the case and to meet the ends of justice;

And for this act of kindness, the Petitioner shall as in duty bound, ever pray.”

The facts:

2. The necessary background factual matrix as adumbrated by the petitioner giving rise to filing of this the writ petition is narrated hereunder.

2.1. A mining lease in Form K (prescribed under Rule 31 of the Mineral Concession Rules, 1960) comprising area of 618.00 hectares in Hatisikly, Nangalsila, Murumdihi, Khandadera, Karanjharan Hill, Burudihi, Paharbhanga, Tiakati, and Bhitarmunda Hill, within Badampahar Tehsil of Mayurbhanj District in the State of Odisha with respect to the Suleipat Iron Ore Mines was executed between the Collector, Mayurbhanj and Late Bajranglal



Padhia on 24.05.1976 with effect from 25.10.1975, which stood transferred by dint of execution of transfer lease deed on 10.10.1984 in favour of the petitioner-Sri Birat Chandra Dagara, upon permission being granted under Rule 37 of the Mineral Concession Rules, 1960 *vide* Government Proceeding No. 8531/MG, dated 24.08.1984.

2.2. The Mines and Minerals (Development and Regulation) Act, 1957 (referred to as “MMDR Act”, for brevity) suffered amendment in the year 2015 by virtue of promulgation of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015 on 12.01.2015. Said Ordinance has been replaced by the Mines and Minerals (Development and Regulation) Amendment Act, 2015, which stands effective from 12.01.2015. Significant amendment thereto by inserting Section 8A in the MMDR Act, 1957, declared that all the leases granted prior to 12.01.2015 are deemed to have been granted for a period of 50 years. In view of such amendment, the lease period of the petitioner got extended for a period of fifty years. A supplementary lease deed was executed on 01.07.2019, whereby the lease was extended up to 24.10.2025.

2.3. In response to Letter bearing No.924/IV(AB)-SM-97/2018, dated 12.02.2019 of Additional Secretary to Government of Odisha in Steel and Mines Department



(Annexure-4), whereby acknowledging grant of lease for thirty years from 25.10.1975 to 24.10.2005, extension of the period of lease up to 23.10.2025 was granted, by a representation dated 18.02.2019 the petitioner (Annexure-5) requested for extension of validity period of mining lease from the date of registration, i.e., 24.05.1976, which was considered by the Government of Odisha vide Letter bearing No.7071/III(C)-SM-3/2005, dated 02.05.2006 issued by the Joint Secretary to Government of Odisha in Department of Steel and Mines (Annexure-6) by stating thus:

*“I am directed to refer to your representation dated 29.08.2005 on the above subject and to say that Government after careful consideration have been pleased to order that as per the provision under Rule 31(2) of the Mineral Concession Rules, 1960, **the tenure of the lease period will be taken into account from 24.05.1976, the date of registration of lease deed for all purposes**”.*

- 2.4. In course of arbitration case between the petitioner and the raising company (namely, M/s. Orissa Manganese and Minerals Ltd.) on account of violation of certain terms and conditions appended to Letter dated 12.02.2019 by the latter company, the petitioner approached the Hon'ble Supreme Court of India by way of filing an Interlocutory Application bearing No.63905 of 2022 in W.P.(C) No.114 of 2014 (Common Cause Vrs. Union of India) seeking permission to sell 40,95,96,304



MT of iron ore of different grades and sizes at the Suleipat Iron Ore Mines under the supervision of the State authorities, which was allowed *vide* Order dated 02.05.2022 “*subject to statutory clearances and any other orders passed by the High Court*”.

- 2.5. With reference to Government of Odisha Letter No.10F (Cons) 34/2014-4734/F&E, dated 10.03.2014, approval was accorded on 23.01.2018 by the Forest Advisory Committee constituted under Section 3 of the Central Government under the Forest (Conservation) Act, 1980 with respect to Suleipat Iron Ore Mines in Ukam, Langalsila, Murumdihi and Bhitarmada Hills falling under Rairangpur Forest Division in Mayurbhanj District. Furthermore, approval of review of mining plan along with progressive mine closure plan in respect of Suleipat Iron Ore Mines over an area of 618 hectares situated in Murumdihi in Badampahad Tahasil in the District of Mayurbhanj was issued by the Government of India in Ministry of Mines, Indian Bureau of Mines from the Office of the Regional Controller of Mines, Bhubaneswar on 06.05.2024. This apart, a Consent Order being No.12926/IND-I-CON-1825, dated 16.08.2024 to discharge sewage and trade effluent under Sections 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974 and for existing/new operation of the plant under Section 21 of the Air (Prevention and



Control of Pollution) Act, 1981 was issued by State Pollution Control Board.

2.6. Amicable settlement¹ being reached at between the petitioner and the raising company, a representation dated 20.08.2024 was submitted to the Steel and Mines Department, Government of Odisha with the prayer to “advise the Deputy Director of Mines, Baripada to allow the lessee for regular despatch and production from the Suleipat Iron Ore Mines with immediate effect in compliance of the order of the Hon’ble Supreme Court dated 02.05.2022”. Having not paid attention to such representation, the petitioner again submitted representation dated 01.10.2024 for taking prompt steps with respect to the representation already pending.

2.7. The Government of Odisha in Department of Steel and Mines by Letter bearing No.1882/SM-MC1-MISC-0036-2021, dated 24.02.2025 instructed the Director of Mines and Geology instructed as follows:

“Ref: Letter dated 20.08.2024 received from Shri B. C. Dagara

Sir,

With reference to the subject cited above, I am directed to forward the Letter dated 20.08.2024

¹ The factual scenario leading to settlement between the petitioner and the raising company has been elaborately discussed in Judgment dated 09.07.2019 rendered by a learned Single Judge of this Court in W.P.(C) No.7445 of 2019 and W.P.(C) No.7537 of 2019.



*received from Shri B.C. Dagara and to communicate the Government's approval for permitting the Lessee, Shri B.C. Dagara, to sell the mined-out material, i.e., 4,09,596,304 MT of iron ore, as directed by the Hon'ble Supreme Court vide Order dated 02.05.2022 in IA No. 60995 of 2022. **This approval is subject to verification that the Lessee has obtained all statutory clearances and has paid the dues to the State Government.***

The resumption of mining operations will also be contingent upon obtaining the necessary statutory clearances and settling all outstanding Government dues.

This matter may be treated as urgent."

2.8. Accordingly, the Director of Mines and Geology, Odisha by Letter bearing No.MIV(C)/28/2004/2254/DoMG, dated 27.02.2025 instructed the Deputy Director of Mines, Baripada not only to take steps to allow sale of mined out iron ore in the light of Order dated 02.05.2022 of the Hon'ble Supreme Court of India in I.A. No.60995 of 2022 but also for resumption of mining operation in the leasehold area subject to fulfilment of certain conditions. Despite such clear instructions, for the reasons best known the Deputy Director of Mines did not allow the lessee to operate the mines. The petitioner-lessee was not even communicated with the Letter dated 27.02.2025 of the Director of Mines. Hence, another representation dated 22.10.2025 was, therefore,



submitted to the Department of Steel and Mines for extension of validity period of the mining lease of Suleipat Iron Ore Mines taking recourse of provisions contained in Section 8A of the MMDR Act as amended in 2015 read with Rule 31(2) of the Minerals Concession Rules, 1960 (hereinafter be referred to as “MC Rules”).

Response of the opposite parties:

3. On behalf of the Steel and Mines Department, a preliminary counter affidavit dated 07.05.2026 has come to be filed *inter alia* with the following replies:

(i) By way of indenture dated 25.10.1975, original lease was granted with effect from 25.10.1975 for a period of thirty years. By virtue of deeming fiction in Section 8A(3) of the MMDR Act, the mining lease is stated to have been granted for a period of fifty years, *i.e.*, from its original grant on 25.10.1975. The lease would remain valid till 24.10.2025. The computation of said period of fifty year has to be in consonance with sub-section (6) of Section 8A which in unequivocal terms lays down that period of fifty years shall be reckoned with respect to leases “granted” prior to effective date for commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, *i.e.*, 12.01.2015.



- (ii) On application of doctrine of acquiescence/waiver, the petitioner cannot seek for add-on period to the last date of validity period as prayed for in the writ petition inasmuch as the supplementary lease deed executed on 01.07.2019 with all consciousness. Said lease deed clearly stipulated that the tenure of lease would remain valid till 24.10.2025 computed from 25.10.1975.
- (iii) Having acted upon on such supplementary lease deed for around five years without any protest or demur, at this belated stage the petitioner is estopped from questioning the action of the Government of Odisha in Steel and Mines Department.
- (iv) The petitioner cannot pray for resurrection of the lease which has already been lapsed on completion of fifty years from 25.10.1975, *i.e.*, from the original “grant”. Extending the period of lease beyond 24.10.2025 would be in contravention of Section 19 of the MMDR Act. The power of grant of extension in contrast with renewal is not vested with the opposite parties under the statute. However, after amendment in the MMDR Act being effected in the year 2015, there has been paradigm shift in allotting mining leases.



Rejoinder affidavit of the petitioner:

4. In reply to the counter-affidavit of the opponent(s), the petitioner sought to impress that:

- i.* The word “grant” is required to be construed as “the date of registration” in view of provisions of Rule 31 of the Mineral Concession Rules, 1960. Since the original lease was executed and registered on 24.05.1976, fifty years would expire on 23.05.2026.
- ii.* Erroneous comprehension on the part of the Government of Odisha is manifest on record. The petitioner by a Letter dated 18.02.2019 (Annexure-5), *i.e.*, prior to execution of the supplementary lease deed on 01.07.2019 raised objection and by referring to Letter dated 02.05.2006 of the Department of Steel and Mines, Government of Odisha, it was brought to the notice of the authority concerned that *“the tenure of the lease period would be taken into account from 24.05.1976, the date of registration for the lease deed for all purposes”*.
- iii.* Inaction of the Government of Odisha in Steel and Mines Department in not allowing the petitioner to resume the mining operation as suggested in the representation dated 22.10.2025 with specific



reference to Steel and Mines Department Letter dated 02.05.2006 construing the date of “grant of lease” for the purpose of Section 8A of the MMDR Act as the date of “registration of lease deed” as envisaged under Rule 31 of the MC Rules, warrants issue of writ of *mandamus* to the opposite parties to consider “24.05.1976” as the reckoning of the date of lease instead of “25.10.1975”.

- iv.* Furthermore, if the date of expiry of lease period would be treated as “23.05.2026” in place of “24.10.2025” a period of six months would have been added to the last date stipulated in the supplementary lease deed. In addition thereto, for non-consideration of the representation dated 20.08.2024 within a reasonable period, the petitioner was deprived of proceeding with the mining activity for a period of fourteen months, thereby he claims to be entitled to further addition to above six months. Therefore, *in toto* twenty months additional period is to be added to the last date, *i.e.*, 23.05.2026, recorded in the supplementary lease deed.

Hearing:

- 5.** As the pleadings are complete and the last date of lease period of fifty years in terms of Section 8A of the MMDR



Act was going to be elapsed on 23.05.2026, upon consent of the counsels for the both the parties, this Court heard the matter finally at the stage of “fresh admission”.

5.1. Sri Sudarshan Nanda, learned Advocate assisted by Shishir Kumar Routray, Advocate representing the petitioner and Sri Pitambar Acharya, learned Advocate General assisted by Ms. Aishwarya Dash, Additional Standing Counsel were heard in the matter.

5.2. Upon conclusion of hearing, the matter stood reserved for preparation and pronouncement of judgment/order.

Discussions and consideration of rival submissions and arguments advanced by the counsel for the respective parties:

6. Confining arguments Sri Sudarshan Nanda, learned Advocate by furnishing note of arguments dated 14.05.2026 sought to press for grant of relief(s), such as:

- i. To treat the lease period of the lessee-petitioner to be reckoned from 24.05.1976, *i.e.*, date of registration of original lease deed, but not from 25.10.1975, *i.e.*, the date of indenture as recorded in the supplementary lease deed for the purpose of computing fifty years period in terms of Section 8A(6) of the MMDR Act read with Rule 31(2) of the MC Rules;



- ii.* To count total period lost due to fault of the opposite parties, *i.e.*,
- a.* Six months on account of error in calculation of period of validity (“24.10.2025” instead of “23.05.2026”);
 - b.* Fourteen months on account of non-consideration of representation dated 20.08.2024 within reasonable period which prevented the petitioner to continue with the mining activity.
 - c.* *In toto* lost periods of twenty months as stated above are to be added to the validity period of lease by extending the date till “23.05.2026” instead of “24.10.2025”.

7. To examine whether the claim of the petitioner that the period of commencement of lease would be reckoned from the date of registration, *i.e.*, 24.05.1976 so as to treat 23.05.2026 as the end of fifty years envisaged in Section 8A of the MMDR Act is just and proper, it may deserve scrutiny of documents enclosed with the writ petition and observations made in certain decisions made.

7.1. It is disclosed in Letter bearing No.924-IV(AB)/SM/97/2018, dated 12.02.2019 (Annexure-4) of



the Government of Odisha in Steel and Mines Department that:

“Now the Government have been pleased to decide to extend the validity period of above mining lease over 618.00 hectares in Suleipat of Mayurbhanj District under Section 8A(3) read with Section 8A(6) of the MMDR (Amendment) Act, 2015² up to 24.10.2025.

The extension of validity period of the aforesaid lease is subject to the following conditions:

- 1. The lessee will furnish an undertaking that he will make the payment for the demand raised or to be raised under Section 21(5) of the MMDR Act in*

² Relevant provisions of Sections 8A of the MMDR Act, 1957 as stood amended in the year 2015 read as follows:

“8A. *Period of grant of a mining lease for minerals other than coal, lignite and atomic minerals.—*

- (1) The provisions of this section shall apply to minerals other than those specified in Part A and Part B of the First Schedule.*
- (2) On and from the date of the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015), all mining leases shall be granted for the period of fifty years.*
- (3) All mining leases granted before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015), shall be deemed to have been granted for a period of fifty years.*
- (4) On the expiry of the lease period, the lease shall be put up for auction as per the procedure specified in this Act.*

Provided that nothing contained in this section shall prevent the State Governments from taking an advance action for auction of the mining lease before the expiry of the lease period.

- (5) ****
- (6) Notwithstanding anything contained in sub-sections (2), (3) and sub-section (4), the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015), where mineral is used for other than captive purpose, shall be extended and be deemed to have been extended up to a period ending on the 31st March, 2020 with effect from the date of expiry of the period of renewal last made or till the completion of renewal period, if any, or a period of fifty years from the date of grant of such lease, whichever is later, subject to the condition that all the terms and conditions of the lease have been complied with.*

***”



accordance with the judgment dated 02.08.2017 of Hon'ble Supreme Court passed in W.P.(C) No.114 of 2014³. **This undertaking will also form part of the supplementary mining lease deed as a Special Condition.**

2. The extension of validity is without prejudice to ongoing proceedings, if any, for lapsing or determination of lease which have been initiated or may be initiated in accordance to the provisions of MMDR Act, 1957 or Rules framed thereunder.

4. The extension of validity period of lease is subject to the final result/outcome of the case Writ Petition (Civil) 114/2014 (Common Cause Vrs. Union of India and others) pending in Hon'ble Supreme Court of India.

***”

7.2. Sri Sudarshan Nanda, learned Advocate emphatically submitted that the suggestion of the petitioner *vide* representation dated 18.02.2019 (Annexure-5) is in consonance with provisions of Section 8A(6) of the MMDR Act as amended in the year 2015 read with Rule 31(2) of the MC Rules. Relevant portion of said representation reflects as follows:

“In our case, the lease in question was registered on 24.05.1976. This fact was brought to the notice of your esteem Department in the month of August, 2005 and

³ Common Cause Vrs. Union of India, (2017) 13 SCR 361 = (2017) 9 SCC 499.



your good office had been pleased to pass an Order vide Letter No.7071, dated 02.05.2006 for the tenure of the lease period, which would be taken into account from dated 24.05.1976, the date of registration for the lease deed for all purposes. A copy of such letter is attached herewith.

*In view of aforesaid position, commencement of the lease period, the date mentioned in your letter under reference dated 25.10.1975 requires correction. In place of 25.10.1975, the same should be 24.05.1976. Accordingly, **the extension of the validity period of the above subject mining lease** under Section 8A of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 should be up to 23.05.2026.*

In the meantime, I also request your good office to calculate the stamp duty and registration fees for executing the supplementary lease deed of the mine. Please intimate me the details of such calculation(s) as soon as possible to enable me to execute the same.”

- 7.3. In response to such restrictive conditions of extension found mentioned in the Steel and Mines Department Letter dated 12.02.2019, the petitioner by Letter dated 18.02.2019 sought to impress upon the Government of Odisha in Steel and Mines Department to treat “24.05.1976” as the date of “grant” of mining lease in place of “25.10.1975”; yet, he signed and executed the supplementary lease deed on 01.07.2019 (Annexure-3) with eyes wide open that the tenure of lease would remain valid up to 24.10.2025.



7.4. A written instruction of the Deputy Director of Mines, Baripada Circle, Baripada prepared in connection with the present writ petition *vide* Letter dated 20.04.2026 addressed to the Director of Mines and Geology, which was supplied by the learned Additional Standing Counsel, is taken aid for assimilating further facts. Relevant factual details contained in said instructions is reproduced hereunder:

- “5. *In the meantime, Show Cause Notice has been issued by the Government vide Order No.4080/SM, dated 24.05.2018 for lapsing due to discontinuance of mining operation for more than two years with effect from 25.10.2015.*
6. *The Suleipat Iron Ore Mining Lease saved from lapsing vide Government Proceeding No.7250/SM, dated 11.09.2018.*
7. *Thereafter Government in Steel and Mines Department vide Order dated 924/SM, dated 12.02.2019 has extended the mining lease period under Section 8A(3) read with Section 8A(6) of the MMDR Act, (as amended), 2015 up to 24.10.2025.*
8. *Accordingly, the supplementary lease deed has been executed in respect of Suleipat Iron Ore Mines on 01.07.2019 and registered on 05.07.2019.*

20. *Further, the State Government vide Letter No.1882/SM, dated 24.02.2025 communicated the approval for permitting the lease to sell the mined*



out materials lying in the leasehold area in the light of the Order dated 02.05.2022 of Hon'ble Supreme Court of India in I.A. No.60995 of 2022 and also resumption of mining operation in the leasehold area subject to following conditions:

- 1. verification of all requisite statutoryies obtained by the lessee in respect of the mine;*
- 2. Settlement of all dues paid by the lessee in respect of the mine.*

21. In this connection, the lessee has been requested vide this Office Letter No.703/Mines, dated 03.03.2025, No.1118/Mines, dated 05.04.2025, No.1393/Mines, dated 03.05.2025, No.1556/Mines, dated 20.05.2025 to deposit the outstanding Government dues as well as submit all requisite statutoryies for taking further action, but lessee has not deposited the outstanding Government dues till date.”

7.5. It is worthwhile to refer to arduous submission advanced by the learned Advocate General with reference to recitals of the supplementary lease deed dated 01.07.2019; relevant covenants of which are extracted herein below:

“And Whereas period of said lease deed was valid from date 25.10.1975 to date 24.10.2005. Subsequently the said Mining Lease was transferred to Sri Birat Chandra Dagara vide Government Proceeding No.8531 dated 24.08.1984 and the transfer lease deed was executed on date 10.10.1984 vide transferred Lease Deed No.515 (Original) and 516 (Duplicate) has been registered in the



office of the District Sub-Registrar, Baripada on dated 06.02.1985 (hereinafter referred to as the said lease);

And Whereas after expiry of the validity period of the said lease deed, the lessee had continued to conduct mining operations in the said lease under the deemed extension provisions of Section 8 of the Mines and Minerals (Development and Regulations) Act, 1957 (hereinafter referred as the MMDR Act) with the permission of the party of the first part till date 26.10.2015;

And Whereas the MMDR Act has been amended with effect from date 12.01.2015 and Section 8A has been inserted in the said Act, providing for extension of validity period of lease granted in the past under the provisions of the said Act, subject to fulfilment of conditions provided therein;

And Whereas the Government of Odisha has decided to extend the validity period of the above mining lease over an area of 618.00 hectares in Suleipat of Mayurbhanj, District under Section 8A(3) read with Section 8A(6) of the MMDR Amendment Act, 2015 lease up to date 24.10.2025. Subject to all the conditions in the said lease deed and subject to the following additional conditions, as described herein below at paragraphs Sl.No.1 to Sl.No.9 as per the Government of Odisha, Steel and Mines Department vide Letter No.924/SM/Bhubaneswar date 12.02.2019.

And it is hereby mutually agreed between the parties:

And Whereas this Supplementary Lease Deed is a part and parcel of the said deed and the terms and conditions



are in furtherance to the term and conditions in addition to the terms and conditions agreed to the said lease deed.

2. **The extension of validity is without prejudice to ongoing proceedings, if any, for lapsing or determination of lease which have been initiated or may be initiated in accordance to the provisions of MMDR Act, 1957 or Rules framed thereunder.**
3. *The extension of validity is without prejudice to any action under the provisions of the Environment (Protection) Act, Odisha Forest Act or any other law for the time being in force in respect of any violations committed by the lessee during the original period of lease or the period of deemed extension, till the date of extension of validity period of lease.*
4. **The extension of validity period of lease is subject to the final result/outcome of Petition (Civil) 114/2014 (Common Cause Vrs. Union of India and others) pending in Hon'ble Supreme Court of India.**
5. *The extension is subject to condition that any terms and conditions of the original lease, if not complied so far, shall be complied by the lessee within such period as may be specified by a competent authority and the lessee shall furnish an undertaking to such effect.*

Undertaking

I, Sri Birat Chandra Dagara son of Late Bisikesan Dagara, aged about 76 years, being the Lessee of



Suleipat Iron Ore Mines over 618.00 hectares, do hereby undertake that, any terms and conditions of the original lease, if not complied so far, shall be complied by me within such period as may be specified by the competent authority.

*Sd/-
(Birat Chandra Dagara)
01.07.2019
B.C. Dagara
Lessee
Suleipat Iron Ore Mines
Rairangpur”*

And Whereas, the party of the second part has agreed to all these terms and conditions and has agreed to execute a supplementary lease deed accepting the extension of the validity period of lease.

Now, therefore the period of validity of the said lease deed is hereby extended and deemed to have been extended up to date 24.10.2025 subject to all terms and conditions of the said lease and the further terms and conditions described in this supplementary lease deed.”

7.6. Notwithstanding such clear acceptance of validity of the tenure of lease period by way of execution of supplementary lease deed, and the petitioner without any demur continued with the activity for more than five years, now wishes to turn round to contend that the expiry of lease period ought to be treated as



“23.05.2026” instead of “24.10.2025”, by furnishing a representation dated 20.08.2024 with reference to Letter dated 02.05.2006 of the Department of Steel and Mines (Annexure-6). The petitioner cannot take aid of such letter inasmuch as he has executed the supplementary lease deed being conscious of the fact that both the parties (lessor and lessee) are *ad idem* of the dates for computation of lease period of fifty years. Essentially, therefore, the petitioner has waived the terms of said letter dated 02.05.2006. Requiring any change or modification in the entries of the registered supplementary lease deed ought to be carried by way of manner specified as is available in law, but not otherwise.

7.7. With vehemence Sri Sudarshan Nanda, learned Advocate advanced argument stemming on the provision of Section 110 of the Transfer of Property Act, 1882⁴ that in terms of Rule 31(2) of the MC Rules, the opposite parties should allow the petitioner to enjoy the right to property under Article 300A of the Constitution of India. It has succinctly been stated in *Sarda Mines Private Limited Vrs. State of Odisha, W.P.(C) No.17676 of 2024, vide Judgment dated 15.05.2026* that “*It hardly needs to be*

⁴ Section 110 of the Transfer of Property Act, 1882, stands thus:
“110. *Exclusion of day on which term commences.—*
Where the time limited by a lease of immoveable property is expressed as commencing from a particular day, in computing that time such day shall be excluded. Where no day of commencement is named, the time so limited begins from the making of the lease.”



stated that statutory lease of the kind would create vested interest in the leaseholder area and therefore, that would constitute property to which constitutional guarantee avails under Article 300A". It is, therefore, submitted that the triggering point for consideration of reckoning of commencement of lease period is the registration of deed, *i.e.*, 24.05.1976, but not the date of grant order. Referring to *Gujarat Pottery Works Vrs. B.P. Sood, AIR 1967 SC 964* it is emphasised that "grant of mining lease" and "execution of a mining lease" are two distinct legal events. Hence, Sri Sudarshan Nanda, learned Advocate submitted that the mining operation of statutory lease which is subsisting cannot be intermeddled with by either the State nor its functionaries unless it is shown to have been done strictly in accordance with law.

- 7.8. The petitioner herein seeks to set up plea of estoppel by referring to Letter dated 02.05.2006 (Annexure-6) to contend that the Government of Odisha in Steel and Mines Department having treated the date of registration of lease deed, *i.e.*, "24.05.1976" as the date for reckoning the lease period, it cannot now change or modify or ignore its view and incorporate wrong facts in the supplementary lease deed. This Court is not taken to any document to evince that the petitioner has taken recourse available to him under the law for changing or



correcting the entries made in the registered supplementary lease deed. Nevertheless, this Court finds that the petitioner having accepted the tenure reflected in the supplementary lease deed signed and executed the same. By his own conduct, having waived the term stipulated in the Letter dated 02.05.2006, as argued by learned Advocate General by dint of application of the doctrine of acquiescence, the petitioner is rather estopped to plead contrary to the recitals contained in the supplementary lease deed. The recitals being incorporated in the supplementary lease deed with consciousness and upon accepted by the parties, the same are binding *inter se* the parties. It is not in dispute that the petitioner has acted upon the terms of such supplementary lease deed for more than five years by the date of furnishing the representation dated 22.10.2025 (Annexure-15).

7.9. The sequence of events enumerated herein above demonstrates that despite Letter dated 18.02.2019 of the petitioner, he has executed the supplementary lease deed much after said date, *i.e.*, 01.07.2019 and continued with the activity in terms of such deed by being fully aware that the lease period would expire on 24.10.2025.

7.10. The question of application of waiver in contractual matters *qua* mining leases has been discussed in *Sarda*



Mines Pvt. Ltd. and Another Vrs. State of Odisha and Others, 2022 SCC OnLine Ori 85 = AIR 2022 Ori 123.
Pertinent it is to quote the following passage therefrom:

“73. *There is merit in the contention of the State that by accepting the aforementioned lease deed in Form K, Shri M.L. Sarda and Shri S.L. Sarda should be taken to have, by their conduct, waived their rights to seek the further renewal for another ten years. In this context, the following observations in United Spirits Ltd. (supra) [Kanchan Udyog Limited Vrs. United Spirits Ltd., (2017) 8 SCC 237⁵] are relevant:*

‘23. *“Waiver by conduct was considered in P. Dasa Muni Reddy Vrs. P. Appa Rao, (1974) 2 SCC 725, observing as follows:*

‘13. ***Abandonment of right is much more than mere waiver, acquiescence or***

⁵ In paragraph 22 of judgment in *Kanchan Udyog Limited Vrs. United Spirits Ltd., (2017) 8 SCC 237* it has been observed as follows:

“22. *The learned Single Judge framed an issue also with regard to waiver, estoppel and acquiescence, then answered it in the negative in a singular line, without any discussion. Waiver and acquiescence may be express or implied. Much will again depend on the nature of the contract, and the facts of each case. Waiver involves voluntary relinquishment of a known legal right, evincing awareness of the existence of the right and to waive the same. The principle is to be found in Section 63 of the Act. **If a party entitled to a benefit under a contract, is denied the same, resulting in violation of a legal right, and does not protest, foregoing its legal right, and accepts compliance in another form and manner, issues will arise with regard to waiver or acquiescence by conduct.** In the facts of the present case, the conduct of the appellant in placing orders and receiving supply of concentrates directly from M/s VEC, for a period of nearly one year, and continuing to do so even after it wrote to the respondent in this regard, without **recourse to any legal remedies for denial of its legal right to receive concentrates** from the respondent, undoubtedly amounts to **waiver by conduct and acquiescence** by it to the new arrangement. **The plea that it was done under compulsion, and not voluntarily, is devoid of any material, substance and evidence. It is unacceptable and merits no consideration.** Alternatively, if it was an assignment under Clause 5 of the agreement, there had been no termination of the contract by the respondent.*



laches ... Waiver is an intentional relinquishment of a known right or advantage, benefit, claim or privilege which except for such waiver the party would have enjoyed. **Waiver can also be a voluntary surrender of a right.** The doctrine of waiver has been applied in cases where landlords claimed forfeiture of lease or tenancy because of breach of some condition in the contract of tenancy. The doctrine which the courts of law will recognise is a rule of judicial policy that a person will not be allowed to take inconsistent position to gain advantage through the aid of courts. Waiver sometimes partakes of the nature of an election. Waiver is consensual in nature. It implies a meeting of the minds. It is a matter of mutual intention. The doctrine does not depend on misrepresentation. Waiver actually requires two parties, one party waiving and another receiving the benefit of waiver. **There can be waiver so intended by one party and so understood by the other. The essential element of waiver is that there must be a voluntary and intentional relinquishment of a right. The voluntary choice is the essence of waiver.** There should exist an opportunity for choice between the relinquishment and an enforcement of the right in question. ***'



24. Waiver could also be deduced from acquiescence, was considered in *Waman Shrinivas Kini Vrs. Ratilal Bhagwandas & Co.*, 1959 Supp (2) SCR 21, observing as follows:

‘13. *** Waiver is the abandonment of a right which normally everybody is at liberty to waive. A waiver is nothing unless it amounts to a release. **It signifies nothing more than an intention not to insist upon the right. It may be deduced from acquiescence or may be implied.** ***’

***”

7.11. In the context of mandatory nature of provisions of issue of notice before proceeding with the matter by the statutory authority, whether such *sine qua non* requirement could be waived by the party concerned by its own conduct, it has been held in the case of *Commissioner of Customs Vrs. Virgo Steels*, (2002) 4 SCC 316 as follows:

“8. **We will next consider the requirement of Section 28 of the Act [Customs Act, 1962] and the applicability of the principle of waiver to the said requirement of that section.** While so doing, it is to be noted that our discussion of Section 28 of the Act is with reference to the section as it stood at the relevant time and not with reference to the existing Section 28 of the Act. The Tribunal by the impugned order has held that in the absence of a notice under Section 28 of the Act, the recovery of



*duty which has escaped collection, is impermissible in law. While accepting this argument, the Tribunal has placed reliance on a judgment of this Court in Collector of Customs Vrs. Tin Plate Co. of India Ltd., (1997) 10 SCC 538. It is true that in the course of the above-cited judgment, this Court had held that **a notice under Section 28 is a condition precedent, but having perused the said judgment carefully, we are of the opinion that this Court used the expression “condition precedent” with reference to issuance of notice under Section 28 and not with reference to the jurisdiction of the proper officer under that section.** While the absence of notice may invalidate the procedure adopted by the proper officer under the Act, it will not take away the jurisdiction of the officer to initiate action for the purpose of recovery of duty escaped. This is because of the fact that the proper officer does not derive his power to initiate proceedings for recovery of escaped duty from Section 28 of the Act. Such power is conferred on him by other provisions of the Act which mandate the proper officer to collect the duty leviable. By a perusal of Chapter V of the Act in which Section 28 is found, it is seen that the charging section which authorises the levy of customs duty is found in Section 12 of the Act. Section 17 contemplates the procedure for making an assessment in regard to duty payable while sub-section (4) of Section 17 makes a provision to empower the proper officer to reassess the imported goods for duty if it is found that the assessment made at the time of importation was based on incorrect or false information. Section 142 of the Act found in Chapter XVIII provides for actual recovery of sums due to the Government. A*



cumulative reading of these provisions found in the Act clearly shows that the jurisdiction of a proper officer to initiate proceedings for recovery of duty which has escaped collection, is not traceable to Section 28. The power to recover duty which has escaped collection is a concomitant power arising out of the levy of customs duty under Section 12 of the Act, and the same does not emanate from Section 28 of the Act. In our opinion, Section 28 only provides for the procedural aspect for recovery of duty, hence, any irregularity committed by a proper officer in following the procedure laid down in Section 28 would not denude that officer of his jurisdiction to initiate action for recovery of escaped duty but it may make such proceedings initiated by that officer voidable. In that view of the matter, in our opinion, the term “condition precedent” used in the case of Tin Plate Co., (1997) 10 SCC 538 is referable to the procedural requirement of Section 28 and not to the jurisdictional aspect of the proper officer to recover the escaped duty. In the said view of the matter, we are of the opinion that the law laid down by this Court in Tin Plate Co. Case, (1997) 10 SCC 538 is that issuance of a notice under Section 28 is a mandatory requirement of that section, with which we are in agreement. We also notice the very important fact that in that case the question of waiver did not arise and what was considered by this Court was the contention of the Revenue that a subsequent letter written by the Revenue after the expiry of the period of limitation would cure the defect of non-issuance of a notice.

9. **The next question for our consideration is: can a mandatory requirement of a statute be**



waived by the party concerned? In answering this question, we are aided by a catena of judgments of this Court as well as of the Privy Council. We will first refer to the judgment of the Privy Council which has been consistently followed by the Supreme Court in a number of subsequent cases involving similar points. In *Vellayan Chettiar Vrs. Govt. of Province of Madras*, AIR 1947 PC 197 : 74 IA 223 the Privy Council held that **even though Section 80 CPC is mandatory, still non-issuance of such notice would not render the suit bad in the eye of the law because such non-issuance of notice can be waived by the party concerned. In the said judgment, the Privy Council held that the protection provided under Section 80 is a protection given to the person concerned and if in a particular case that person does not require the protection he can lawfully waive his right.**

10. In the case of *Dhirendra Nath Gorai Vrs. Sudhir Chandra Ghosh*, AIR 1964 SC 1300 = (1964) 6 SCR 1001 this Court followed the judgment of the Privy Council in *Vellayan Chettiar*, AIR 1947 PC 197 = 74 IA 223 and held that even though the requirement of Section 35 of the Bengal Money Lenders Act is mandatory in nature, such mandatory requirement could be waived by the party concerned. On a true construction of Section 35 of that Act, this Court held that the said section is intended only for the benefit of the judgment-debtor and, **therefore, he can waive the right conferred on him under the said section.**



11. *In the case of S. Raghubir Singh Gill Vrs. S. Gurcharan Singh Tohra, 1980 Supp SCC 53 this Court negated an argument that the requirement of Section 94 of the Representation of the People Act, 1951 cannot be waived. **This argument was based on the principle that public policy cannot be waived. Rejecting the said argument, this Court held that the privilege conferred or a right created by a statute, if it is solely for the benefit of an individual, he can waive it.** It also held that where a prohibition enacted is founded on public policy, courts should be slow to apply the doctrine of waiver but **if such privilege granted under the Act is for the sole benefit of an individual as is the case under Section 94 of the Representation of the People Act, the person in whose benefit the privilege was enacted has a right to waive it because the very concept of privilege inheres a right to waiver.***

12. *In Krishan Lal Vrs. State of J&K, (1994) 4 SCC 422 this Court while considering the requirement of furnishing a copy of inquiry proceedings under Section 17(5) of the J&K (Government Servants) Prevention of Corruption Act, 1962 held following the judgment in V. Chettiar case, AIR 1947 PC 197 = 74 IA 223 and D.N. Gorai, AIR 1964 SC 1300 = (1964) 6 SCR 1001 that **though the requirement mentioned in Section 17(5) of the Act was mandatory, the same can be waived because the requirement of giving a copy of the proceedings of the inquiry mandated by Section 17(5) of the Act is one which is for the benefit of the individual concerned.***



13. *In Martin & Harris Ltd. Vrs. VIth ADJ, (1998) 1 SCC 732 this Court while considering the provision of Section 21(1)(a) first proviso of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 negated a contention advanced on behalf of the appellant therein that the said provision was for public benefit and could not be waived. **It held that it is true that such benefit enacted under the said proviso covered a class of tenants, still the said protection would be available to a tenant only as an individual, hence, it gave the tenant concerned a locus poenitentiae to avail the benefit or not. It also held that the benefit given under the said section was purely personal to the tenant concerned, hence, such a statutory benefit though mandatory, can be waived by the person concerned.***
14. *From the ratio laid down by the Privy Council and followed by this Court in the above-cited judgments, it is clear that **even though a provision of law is mandatory in its operation if such provision is one which deals with the individual rights of the person concerned and is for his benefit, the said person can always waive such a right.***
15. ***Bearing in mind the above-decided principle in law, if we consider the mandatory requirement of issuance of notice under Section 28 of the Act, it will be seen that that requirement is provided by the statute solely for the benefit of the individual concerned, therefore, he can waive that right.** In other words, this section casts a duty on the officer to issue notice to the person*



concerned of the proposed action to be taken. This is not in the nature of a public notice nor any person other than the person against whom the proceedings are initiated has any right for such a notice. **Thus, this right of notice being personal to the person concerned, the same can be waived by that person.**

16. If the above position in law is correct, which we think it is, M/s. Virgo Steels, **having specifically waived their right for a notice, cannot now be permitted to turn around** and contend that the proceedings initiated against them are void for want of notice under Section 28 of the Act, so as to frustrate the statutory duty of the Revenue to demand and collect customs duty which M/s Virgo Steels had intentionally evaded.”

7.12. The written instructions of the Deputy Director of Mines vide Letter dated 20.04.2026, as supplied by the learned Additional Standing Counsel assisting the learned Advocate General, contains the following facts:

- “1. Originally the Mining Lease of Suleipat Iron Ore Mines over an area of 582.04 hectares have been granted in favour of Sri Bajranglal Paia vide Government Proceeding No.III(C)M. 8/70-6076/MG, Bhubaneswar, dated 21.08.1970.
2. Further, the said area has been revised to 618.00 hectares and granted in favour of Sri Padia vide Government Proceeding No.III(C) MG-4/75-5737, dated 12.06.1975 and time has been allowed up to 25.10.1975 for execution of lease deed vide



Government Letter No.III(C) MG-4/75-10990/MG, Bhubaneswar dated 06.10.1975.

3. *Accordingly, the lease deed was executed on 25.10.1975 for a period of 30 years and registered on 24.05.1976.”*

7.13. The petitioner, transferee of the leasehold mines by dint of transfer lease deed executed on 10.10.1984, was aware of existence of Letter dated 02.05.2006 of the Department of Steel and Mines. Despite such fact within knowledge of both the lessor (Steel and Mines Department) as well as the lessee (the petitioner), the supplementary lease deed being executed was registered by specifically mentioning therein that the terms thereof have been accepted. Following covenants in the said deed dated 01.07.2019 (Annexure-3) are placed hereunder for better comprehension:

“8. *The lessee will execute a supplementary lease deed for the extended period and the above conditions and undertakings will form part of such deed.*

Now therefore, the period of validity of the said lease deed is hereby extended and deemed to have been extended up to 24.10.2025 subject to all terms and conditions of the said lease and the further terms and conditions described in this supplementary lease deed.”

7.14. In the considered view of this Court such fact of acceptance and agreement between the parties cannot



be changed or modified at the instance of one of the parties without taking legally available recourse and especially in the view afore-referred decisions. It can thus be stated that even though a provision of law is mandatory in its operation if such provision is one which deals with the individual rights of the person concerned and is for his benefit, the said person can always waive such a right. Having acted upon such supplementary lease deed dated 01.07.2019 for more than five years before furnishing representation (Annexure-15), it is deemed apposite to hold that the petitioner has waived his right, if there be any.

7.15. It may deserve to have reference to *Sarda Mines Pvt. Ltd. and Another Vrs. State of Odisha and Others, 2022 SCC OnLine Ori 85 = AIR 2022 Ori 123*⁶ wherein after taking note of judgments of Hon'ble Supreme Court of India in the case of *Common Cause Vrs. Union of India, (2016) 11 SCC 455*, this Court held that:

“66. *** At the outset it requires to be noticed that the changes brought about to the MMDR Act by the MMDR Amendment 2015 introduced a new regime in the context of mining leases in the country. The SOR of the MMDR Act Amendment Bill 2015 acknowledged that the mining sector had been subjected to numerous litigations in the earlier three years and many important judgments had been

⁶ Civil Appeal being Nos. 8995 and 8996 of 2022 wherein challenge against the Judgment dated 10.01.2022 of this Court are pending.



pronounced by the Supreme Court of India besides the judgments on the issue of allocation of natural resources which had a direct relevance to the grant of mineral concessions. The SOR proceeded to note as under:

- '4. The present legal framework of MMDR Act, 1957, does not permit the auctioning of mineral concessions. Auctioning of mineral concessions would improve transparency in allocation. Government would also get an increased share of the value of mineral resources. Some provisions of the law relating to renewals of mineral concessions have also been found to be wanting in enabling quick decisions. Consequently, there has been a slowdown in the grant of new concessions and the renewal of existing ones. As a result, the mining sector started registering a decline in production affecting the manufacturing sector which largely depends on the raw material provided by mining sector. The Government has therefore felt it necessary to address the immediate requirements of the mining sector and also to remedy the basic structural defects that underlie the current impasse.*
- 5. In view of the urgent need to address these problems, the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015 was promulgated on 12th January, 2015. The present Bill is to replace this Ordinance. This bill is designed to put in place mechanism for:
 - (i) Eliminating discretion;**



- (ii) *Improving transparency in the allocation of mineral resources;*
- (iii) *Simplifying procedures;*
- (iv) *Eliminating delay in administration, so as to enable expeditious and optimum development of the mineral resources of the country;*
- (v) *Obtaining for government an enhanced share of the value of the mineral resources of the country; and*
- (vi) *Attracting private investment and the latest technology;'*

67. *The SOR further explained some of the significant features of the MMDR Amendment Bill, 2015 and in particular the following:*

- '(i) Removal of discretion; auction to be sole method of allotment : The amendment seeks to bring in utmost transparency by introducing auction mechanism for the grant of mineral concessions. The tenure of mineral leases has been increased from the existing 30 years to 50 years. There is no provision for renewal of leases.'*

68. *Therefore, it is claimed that after the MMDR Amendment Bill which became effective on 12th January, 2015, the concept of renewal of mining leases was virtually non-existent. This is an important factor to be kept in mind while appreciating what the effect on the arrangements previous to the amendment would be.*



76. ***In Common Cause Vrs. Union of India (supra) [Vide, (2016) 11 SCC 455], the Supreme Court had occasion to interpret Section 8A as inserted by the 2015 Amendment which came into effect from 12th January, 2015. The dispute between the parties before the Court was crystallized in para 23 as under:***

‘23. There is a serious dispute between the rival parties with reference to the interpretation of Sections 8A(3), 8A(5) and 8A(6) of the MMDR Act. Whilst the contention of learned counsel appearing for the petitioner-Common Cause is, that the benefit of sub-sections (3), (5) and (6) of Section 8A, will extend only to such mining leases as were subsisting on the date of introduction of the amendment— 12.01.2015; it is the contention of learned counsel representing the leaseholders, that the above postulation, at the hands of learned counsel for the non-applicants, is wholly misconceived, and would result in a misreading of the amended Section 8A of the MMDR Act.’

77. *Having analyzed the SOR of the Bill the Supreme Court explained as under:*

*‘29. From a perusal of the extract reproduced above, it is apparent, that **the insertion of Section 8A into the MMDR Act, was to address the hardship faced by leaseholders, besides other reasons, due to the second and subsequent applications for renewal, remaining unattended at the***



hands of the State Government. The instant amendment to the MMDR Act, introduced a uniform original grant period of fifty years, for all mining leaseholders. It also excluded renewal(s), after the expiry of the original lease period. Accordingly, no renewal application can now be filed (after 12.01.2015). Under sub-sections (5) and (6) of Section 8A, in our view, such leaseholders who had moved applications for renewal of captive/non-captive mines, would be entitled to continue up to 31.03.2030/31.03.2020. The “Objects and Reasons” for the amendment to the MMDR Act aim at remedying the position which emerged upon the interpretation of the provisions of the MMDR Act, as they existed hitherto before. The instant amendment was also directed at remedying the grievances of the mining industry due to “second and subsequent renewals” remaining pending. And also, because the provisions of law relating to renewals had been found to be wanting. The above view is also endorsed by the fact, that Section 8A(9) deals with a situation wherein “...renewal has been rejected...”. **It is therefore apparent, that sub-sections (5) and (6) of Section 8A of the amended MMDR Act are aimed at situations, wherein an application for renewal (validly made) has remained unattended.** Therefore, for no fault of the leaseholder, he would be subjected to an arbitrary prejudice. It needs to be clarified, that since an application for renewal cannot be filed after 12.01.2015,



an application for renewal as would be treated as having been validly made, ought to have been made before 12.01.2015. We are of the view, that out of the three contingencies contemplated under sub-sections 8A(5) and 8A(6), referred to above, the first of the contingencies positively, pertains to a situation, wherein applications validly made for renewal, were pending without any final decision at the hands of the State Government. Because in the absence of a renewal application, the leaseholder can be taken to have already expressed his disinterest, to continue mining operations. Therefore logically, the words "... with effect from the date of expiry of the period of renewal last made ...", should relate to an expired lease prior to 12.01.2015, in relation to which a valid application for renewal had already been made.'

78. *Thereafter, in para 37 the conclusions of the Supreme Court in this regard was summarized. Relevant to the case on hand and the conclusions at paras 37.1 and 37.6 which read as under:*

'37.1A leaseholder would have a subsisting mining lease, if the period of the original grant was still in currency on 12.01.2015. Additionally, a leaseholder whose original lease has since expired, would still have a subsisting lease, if the original lease having been renewed, the renewal period was still in currency on 12.01.2015. Such a leaseholder, would be entitled to the benefit of Section 8A of the amended MMDR Act.



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37.6 Consequent upon the amendment of Section 8A of the MMDR Act, the regime introduced through sub-sections (5) and (6) thereof, provides for three contingencies where benefits have been extended to leaseholders whose lease period had earlier been extended by a renewal. Firstly, for a leaseholder whose renewal period had expired before 12.01.2015, and the leaseholder had moved an application for renewal at least twelve months before the leaseholder's existing lease was due to expire,

⁷ Paras 37.2 and 37.5 of *Common Cause Vrs. Union of India (supra)* [Vide, (2016) 11 SCC 455 reads thus:

- “37.2. A leaseholder who had not moved an application for renewal of a mining lease (which was due to expire, prior to 12-1-2015), at least twelve months before the existing lease was due to expire, under the provisions of the unamended MMDR Act and the Mineral Concession Rules will be considered as not a valid/subsisting leaseholder after the expiry of the lease period. The provisions of the amended MMDR Act will therefore not enure to the benefit of such leaseholder.
- 37.3. A leaseholder who has moved an application for renewal (of the original/first or subsequent renewal) of a mining lease, at least twelve months before the existing lease was due to expire and on consideration such an application has been rejected will be considered as not a valid/subsisting leaseholder. The provisions of the amended Section 8-A of the MMDR Act will not enure to the benefit of such leaseholder because of the express exclusion contemplated for the above exigency under Section 8-A(9) of the amended MMDR Act.
- 37.4. A leaseholder who has moved an application for “first renewal” of the original mining lease, at least twelve months before the original lease was due to expire, and such application has not been rejected, will be considered to be a valid leaseholder having a subsisting right to carry on mining operations till the expiry of two years after 18-7-2014 i.e. up to 17-7-2016 as is apparent from a conjoint reading of the unamended and amended Rule 24-A of the Mineral Concession Rules. Such leaseholder would have the benefit of sub-sections (5) and (6) of Section 8-A of the amended MMDR Act.
- 37.5. A leaseholder who had moved a second (third or subsequent) renewal application under Section 8(3) of the unamended MMDR Act, at least twelve months before the renewed lease was due to expire and whose application had not been considered and rejected [though not entitled to any benefit under the unamended Section 8-A of the MMDR Act and the amended Rule 24-A(6) of the Mineral Concession Rules] up to 12-1-2015 would still have the benefit of sub-sections (5) and (6) of Section 8-A of the amended MMDR Act in view of the situation sought to be remedied by the Mines and Minerals (Development and Regulation) Amendment Act, 2015.”



and whose application has not been considered and rejected, the lease period would stand extended up to 31.03.2030/31.03.2020 (in the case of captive/non-captive mines, respectively). Additionally, a leaseholder whose period of renewal would expire after 12.01.2015, but before 31.3.2030/31.03.2020, the lease period would stand extended up to 31.03.2030/31.03.2020 (in the case of captive/non-captive mines, respectively). Secondly, where the renewal of the mining lease already extends to a period beyond 31.03.2030/31.03.2020 (in the case of captive/non-captive mines, respectively), the lease period of such leaseholders, would continue up to the actual period contemplated by the renewal order. Thirdly, a leaseholder would have the benefit of treating the original lease period as of fifty years. Accordingly, even during the renewal period, if the period of the mining lease would get extended (beyond the renewal period) by treating the original lease as of fifty years, the leaseholder would be entitled to such benefit. Out of the above three contingencies provided under sub-sections (5) and (6) of Section 8A, the contingency as would extend the lease period farthest, would ensure to the benefit of the leaseholder.”

79. *In view of the amendment to Section 8A of the MMDR Act read with its interpretation as above by the Supreme Court of India, this Court is not persuaded by the argument of learned Senior Counsel for the petitioner that a deliberate attempt has been made by the State Government to*



misinterpret Section 8A(6) of the MMDR Act. The expression “till the completion of the renewal period if any” cannot be interpreted in this case as renewal up to 13th August, 2031. In the absence of an express clause in the lease deed that permits such renewal de hors the statutory provisions, the period of renewal cannot extend beyond 13th August, 2021. The expression “till the completion of the renewal period” occurring Section 8A(6) of the MMDR Act⁸ can only be 13th August, 2021. Section 8A(6) read with Section 8(4) of MMDR Act as amended does not permit any automatic extension of the lease deed. The interpretation placed on Section 8A by the Supreme Court in Common Cause (supra) is final and binding and does not admit of any departure therefrom. In the present case, what SMPL is seeking is an automatic renewal on the basis of orders and documents prior to 12th January 2015. None of that can hold good in light of the amendments brought about to the MMDR Act and in particular Section 8A (6) of the MMDR Act.”

7.16. Situation dealt in *Sarda Mines Pvt. Ltd. and Another Vrs. State of Odisha and Others*, 2022 SCC OnLine Ori 85 = AIR 2022 Ori 123 pertained to the following:

“1. These are three writ petitions and one contempt petition filed by M/s. Sarda Mines Pvt. Ltd. (SMPL)

⁸ Meaning and purport of use of fiction in the language of provisions of Section 8A of the MMDR Act can be conceived of *vide*, *Bhavnagar University Vrs. Palitana Sugar Mill*, (2003) 2 SCC 111:

“If you are bidden to treat an imaginary state of affairs as real, you must surely, unless prohibited from doing so, also imagine as real the consequences and incidents which, if the putative state of affairs had in fact existed, must inevitably have flowed from or accompanied it.” [See, *East End Dwellings Co. Ltd. Vrs. Finsbury Borough Council*, 1951 (2) All England Reports 587].



(Petitioner No. 1) and its Director and Shareholder (Petitioner No. 2).

- 2. In W.P.(C) No. 3115 of 2021, the petitioners have sought a direction to the opposite party-Department of Steel and Mines, State of Odisha (DSM) to execute a lease deed in favour of petitioner No. 1 (SMPL) "for the remaining bifurcated period of 10 years of the 30 years period" in terms of the directions dated 28th June and 18th December, 1991 of this Court in OJC No. 2567 of 1984 and 30th June 1998 in OJC No. 1803 of 1986 and also in terms of the order dated 11th February, 1999 passed by the DSM.*
- 3. The prayer in W.P.(C) No. 6905 of 2021 is for quashing of a demand notice dated 8th February, 2021 issued by the Joint Director of Mines, Joda, District: Keonjhar (JDM) (opposite party No. 1) in the writ petition directing the petitioner to pay a sum of Rs.2045.51 crores as compensation on excess production; quashing the notice dated 20th May, 2021 issued by the JDM asking SMPL not to cross the pro rata limit of production against the quantity stipulated in the Environmental Clearance (EC), accorded by the Ministry of Environment and Forest (MoEF), Government of India and in case the said limit is already reached, to stop production immediately; to quash a letter dated 21st May, 2021 by which SMPL was informed by the JDM that on verification from the I3MS login, it was found that SMPL had already achieved production of 22,75,848 MT thus crossing the pro rata limit of production and therefore, SMPL was asked to stop production of iron ore in the mines 'immediately'.*



4. *In the third writ petition i.e. W.P.(C) No. 17905 of 2021, SMPL, Petitioner No. 1 and its Director and Shareholder (Petitioner No. 2) have challenged an order dated 20th May, 2021 issued by DSM, Government of Odisha, retrospectively revising the date of renewal of lease deed which was executed on 14th August, 2001 to 1st August 1964.*
5. *Apart from the above, CONTC No. 3650 of 2021 has been filed by SMPL alleging that the Opposite Parties have wilfully disobeyed the order dated 7th June, 2021 passed by this Court in I.A. No. 7623 of 2021 in W.P.(C) No. 6905 of 2021.”*

7.17. In the case at hand the petitioner has been harping at adding a period of twenty months during which he could not operate the mines, but his case is not with respect to “renewal” or “extension”⁹. Careful reading of Section 8¹⁰ juxtaposed with Section 8A of the MMDR Act, it is

⁹ For conceptual understanding with respect to distinctive feature between the words “renewal” and “extension”, see, *Provash Chandra Dalui Vrs. Biswanath Banerjee*, 1989 Supp (1) SCC 487; *Gajraj Singh Vrs. STAT*, (1997) 1 SCC 650; *Ambica Quarry Works Vrs. State of Gujarat*, (1987) 1 SCC 213; *Rural Litigation and Entitlement Kendra Vrs. State of U.P.*, 1989 Supp (1) SCC 504; *State of M.P. Vrs. Krishnadas Tikaram*, 1995 Supp (1) SCC 587; *Gujarat Electricity Board Vrs. Shantilal R. Desai*, AIR 1969 SC 239 = (1969) 1 SCR 580; *Krupajal SHG, Balasore Vrs. State of Odisha*, WA No.907 of 2025, vide Judgment dated 09.09.2025 of this Court.

¹⁰ Relevant provisions of Section 8 of the MMDR Act as amended by virtue of the Mines and Minerals (Development and Regulation) Amendment, 2015 stand thus:

- “8. *Periods for which mining leases may be granted or renewed.—*
- (1) *The provisions of this section shall apply to minerals specified in Part A of the First Schedule.*
 - (2) *The maximum period for which a mining lease **may be granted** shall not exceed thirty years:
Provided that the minimum period for which any such mining lease may be **granted** shall not be less than twenty years.*
 - (3) *A mining lease may be renewed for a period not exceeding twenty years with the previous approval of the Central Government.*

***”



eminent that the stress is laid on the word “grant” of mining lease. As is manifest from record that after the supplementary lease deed being executed on 01.07.2019, seeking permission to issue transit permit for removal of ore from the leasehold area to facilitate sale of mined out ores of specified quantity, the petitioner approached the Hon’ble Supreme Court of India by way of filing *I.A. No.63905 of 2022 in W.P.(C) No.114 of 2014 (Common Cause Vrs. Union of India)*, wherein the following order was passed on 02.05.2022:

“I.A. No. 63905/2022

*The applicant **seeks permission to sell** 4,09,596,304 MT of iron ore of different grades and sizes at the Sulaipat Iron Ore Mines under the supervision of the State. Additionally, the applicant also seeks directions to the State of Odisha to issue transit permits for removal of ore from the leasehold areas.*

Heard learned counsel for the applicant and counsel for the State. Learned counsel for the State has no objection if the prayers in the present application are allowed by this Court.

*At this juncture, learned counsel appearing for the private third party raised an objection to the instant interlocutory application. **He submits that certain orders have been passed by the High Court to not to lift the material.***

Taking into consideration the submission made by learned counsel for the parties, we grant the prayer sought in the present application subject to



statutory clearances and any orders passed by the High Court.

I.A. No. 63905/2022 stands disposed of.”

7.18. It does clearly emanate from the above order that the petitioner sought permission to sell iron ore of different grades and sizes at the Suleipat Iron Ore Mines under the supervision of the State and prayed for directions to the State of Odisha to issue transit permits for removal of ore from the leasehold areas of specified quantity of mined out ores. It is apparent from the said order that the prayers of the petitioner in said interlocutory application were allowed “*subject to statutory clearances and any orders passed by the High Court*”.

7.19. While matter so stood, it transpires from the representation dated 20.08.2024 (Annexure-8) that in W.P.(C) No.8495 of 2022, filed by the raising company, viz., Orissa Manganese and Minerals Ltd., vide Order dated 07.04.2022 a direction was issued to the authority concerned to consider the representation and pass reasoned speaking order. It is asserted by the petitioner that a review petition, being RVWPET No.181 of 2022, was filed before this Court, which stood “dismissed as not pressed” vide Order dated 01.08.2024.



7.20. In a case between the present petitioner and M/s. Orissa Manganese & Minerals Ltd., being W.P.(C) No. 17649 of 2020, the following order was passed on 16.02.2022:

- “2. The petitioner was operating a mining lease for Iron Ore at Suleipat in the district of Mayurbhanj with effect from April, 2010 through the raising contractor, M/s. Orissa Manganese & Minerals Ltd.-opposite party No. 4. Due to dispute between the two, arbitration clause was invoked leading up to an award by way of amicable settlement.**
3. *Due to non-adherence to the agreed terms, both the petitioner and opposite party No.4 filed their respective execution applications before the Learned District Judge, Mayurbhanj-Baripada. Learned District Judge, Mayurbhanj-Baripada passed an order dated 21st July 2020 in the execution filed by opposite party No. 4, which is a subject matter of challenge by the petitioner in the present writ application. Further, challenge has been laid to the order dated 23rd July, 2020 passed by the Mining Officer, Baripada Circle, Baripada, whereby the petitioner-Birat Chandra Dagara was restrained from dispatching of Iron Ore temporarily and maintained the present position till the dispute between the parties was resolved.*
4. *After issue of notice and filing of respective counters, now memo has been filed, whereby the Petitioner has prayed for an unconditional withdrawal of the writ petition. Learned counsel for the petitioner thus prays to withdraw the writ petition.*



5. *Accordingly the writ petition is dismissed as withdrawn.”*

7.21. It is disclosed from the representation dated 20.08.2024 that the petitioner insisted for implementation of Order dated 02.05.2022 passed in I.A. No.63905 of 2022 by the Hon’ble Supreme Court of India. Therefore, in essence permission to sell specific quantity of mined out iron ore of different grades and sizes at the Suleipat Iron Ore Mines under the supervision of the State was allowed and transit permits for removal of mined out ore from the leasehold areas were to be granted for the said purpose.

7.22. Since the petitioner has appended undertaking in the supplementary lease deed dated 01.07.2019 to abide by the extension of validity period of lease subject to the final outcome of the case in Writ Petition (Civil) No.114 of 2014¹¹, and being aware of date of expiry of tenure of lease, consciously signed and executed the supplementary lease deed on 01.07.2019 to the effect that the date of lease would reckon from 25.10.1975. To reiterate it is evident from supplementary lease deed that it was executed/indenture was made on 25.10.1975, but registered on 24.05.1976 (*vide* recital at page 2 of supplementary lease deed). Such material fact is also found available on the document titled “Transfer of

¹¹ Disposed of *vide* Judgment dated 02.08.2017 [Neutral Citation: 2017 INSC 700].



Mining Lease” in terms of Rule 37A of the MC Rules, wherefrom it is discernible that:

*“Whereas **by virtue of an indenture of lease dated the 25th day of October 1975** and registered as No.3562 on 29.05.1976 (date) in the office of the Sub-Registrar of Mayurbhanj, Baripada (place) ”*

7.23. Furthermore, notwithstanding Letter dated 02.05.2006 (Annexure-6) and despite such fact being brought to the notice of the Government of Odisha in Steel and Mines Department by way of representation dated 18.02.2019 (Annexure-5), the petitioner having waived such fact, has agreed to execute and register the supplementary lease deed on 01.07.2019; thereby he (lessee) is said to have acquiesced with the fact that the date “25.10.1975” is to be reckoned as the date for the purpose of computation of fifty years as contemplated under sub-sections (3) and (6) of Section 8A of the MMDR Act.

7.24. The argument advanced by Sri Sudarshan Nanda, learned Advocate by referring to principles of waiver, acquiescence and/or estoppels is repelled hereby.

7.25. The learned Advocate General vociferously argued that in view of sub-rule (1) of Rule 31 of the MC Rules lease deed in the prescribed form is required to be executed within six months of the order or within such further period as the State Government may allow in this behalf. Laying emphasis on sub-rule (2) thereto, which has been



introduced with effect from 18.01.2000 by virtue of Notification No.GSR 56(E), dated 17.01.2000 by way of substitution, it is exposted that the original lease deed being executed on 25.10.1975, the position of law as existed on that date is required to be applied. It is true that the amendment of MC Rules came into force with effect from 18.01.2000. On the date(s) of execution and registration of lease deed, sub-rule (1) of Rule 31 existed. The learned counsel for the petitioner is not in a position to answer the provision in sub-rule (2) that existed during the relevant period when the lease deed was granted. Thus, there being no dispute with regard to “grant of mining lease” in consonance with Rule 31(1), this Court does not find any anomaly or incongruity in the supplementary lease deed specifying the validity period to be up to 24.10.2025, which was accepted with all consciousness by the petitioner.

7.26. This Court on scrutiny of factual details discussed by co-ordinate Bench of this Court in *Sarda Mines Private Limited Vrs. State of Odisha, W.P.(C) No.17676 of 2026, vide Judgment dated 15.05.2026 [2026 SCC OnLine Ori 2303]* finds that suspension order was under challenge therein and the petitioner has been filing representations way back in the year 2014 being aggrieved by such suspension order. The Court on factual analysis of that case, distinct from the present case, allowed the writ



petition and directed to add period lost with regard to non-operation of the mines.

7.27. Here on distinctive material facts, this Court does not find force to countenance the contention of Sri Sudarshan Nanda, learned Advocate that the supplementary lease deed executed on 01.07.2019 between the Collector and District Magistrate, Mayurbhanj (for and on behalf of the Government of Odisha) and Sri Birat Chandra Dagara (Lessee of Suleipat Iron Ore Mine, Rairangpur) needs to be interpreted as if the lease was granted from the date of registration of the original lease deed on 24.05.1976 so that fifty years would expire on 23.05.2026, but not from the date of indenture, *i.e.*, 25.10.1975.

8. Sri Sudarshan Nanda, learned Advocate by referring to Order dated 02.05.2022 of the Hon'ble Supreme Court of India in I.A. No.63905 of 2022 claimed that due to lethargic attitude of the Department of Steel and Mines, the petitioner could not operate the mines for around twenty months.

8.1. It is submitted by the learned Advocate that as equity demands, said lost periods are to be compensated by extending the period adequately. Drawing attention to Letter dated 24.02.2025 (Annexure-13) issued by the Government of Odisha in Steel and Mines Department



indicating approval to sell ore to the tune of 40,95,96,304 MT as directed by Order dated 02.05.2022 of the Hon'ble Supreme Court of India and resumption of mining operations would be contingent upon obtaining necessary statutory clearances and settling all outstanding Government dues, it is alleged that said letter was not communicated to the petitioner. Such approval was accorded in consideration of representation dated 20.08.2024 of the petitioner. In furtherance thereto, a Letter dated 27.02.2025 (Annexure-14) was issued by the Director of Mines and Geology addressed to the Deputy Director of Mines, Baripada indicating follow up action in the matter of allowance of the Government of Odisha as stated above. It is hence submitted that there was inaction on the part of the Government from 20.08.2024 in consideration of the representation of the petitioner and added to that the opposite parties did not bother to communicate the letter of approval.

- 8.2. It is submitted that on 22.10.2025 the petitioner furnished a representation to the Department of Steel and Mines, requesting to consider the computation of lease period of fifty years from the date of registration of the lease deed, *i.e.*, 24.05.1976 and extend another six months by rectifying or treating the validity period as "23.05.2026" instead of "24.10.2025". Besides this,



another additional period of fourteen months, *i.e.*, from 20.08.2024 to 24.10.2025 during which inaction of the State Government is perceived is to be added therefrom. In effect, the petitioner claims addition/extension of twenty calendar months from 24.10.2025 as a compensatory measure for the loss he sustained.

- 8.3. It is further submitted that despite receipt of the letter/representation dated 22.10.2025, the Government of Odisha in Department of Steel and Mines did not respond. Perceiving delay in consideration of such representation, the petitioner sent a Reminder Letter dated 24.12.2025 to the Government for consideration of claim at an early stage.
- 8.4. It is, therefore, contended that since no action has been taken, this writ petition deserves to be allowed in favour of the petitioner.
- 8.5. This Court, in consideration of anxiety shown by the petitioner and upon diligent analysis of documents enclosed with the writ petition coupled with arguments advanced, feels it apt to clarify that having held in the foregoing paragraph(s) that the validity period as per supplementary lease deed dated 01.07.2019 was up to 24.10.2025; but the writ petition has been filed after the said date, *i.e.*, on 20.02.2026. At paragraph 12 of the writ petition it has been asserted that the petitioner



submitted representation dated 22.10.2025 (Annexure-15), just two days prior to the date of expiry of tenure of lease computed from 25.10.1975 and around six years after execution of supplementary lease deed.

8.6. If at all the petitioner wished to have rectification of the mistake in the said supplementary lease deed dated 01.07.2019 for the purpose of computing the validity period or reckoning the date of commencement of the lease period for ascertaining expiry day of fifty years therefrom ought to have taken recourse or step available in law; rather the fact on record revealed that having accepted the validity period as stipulated in the said supplementary lease deed, he continued his mining activity. In the considered opinion of this Court the representation dated 22.10.2025 submitted at the fag end knowing fully well that the period of lease would expire on 24.10.2025 the petitioner cannot take advantage of extension of twenty months as claimed.

8.7. In the case of *C. Jacob Vrs. Director of Geology & Mining, (2008) 14 SCR 634* it has been observed as follows:

“7. Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the department, the reply may be only to inform



that the matter did not concern the department or to inform the appropriate department. Representations with incomplete particulars may be replied by seeking relevant particulars. **The replies to such representations cannot furnish a fresh cause of action or revive a stale or dead claim.**

8. When a direction is issued by a court/tribunal to consider or deal with the representation, usually the directee (person directed) examines the matter on merits, being under the impression that failure to do may amount to disobedience. **When an order is passed considering and rejecting the claim or representation, in compliance with direction of the court or tribunal, such an order does not revive the stale claim, nor amount to some kind of 'acknowledgment of a jural relationship' to give rise to a fresh cause of action.**
9. When a Government servant abandons service to take up alternative employment or to attend to personal affairs, and does not bother to send any letter seeking leave or letter of resignation or letter of voluntary retirement, and the records do not show that he is treated as being in service, he cannot after two decades, represent that he should be taken back to duty. Nor can such employee be treated as having continued in service, thereby deeming the entire period as qualifying service for purpose of pension. **That will be a travesty of justice.** Where an employee unauthorizedly absents himself and suddenly appears after 20 years and demands that he should be taken back and approaches court, the department naturally will not or may not have any record relating to the employee at that distance of



time. In such cases, when the employer fails to produce the records of the enquiry and the order of dismissal/removal, court cannot draw an adverse inference against the employer for not producing records, nor direct reinstatement with back wages for 20 years, ignoring the cessation of service or the lucrative alternative employment of the employee. Misplaced sympathy in such matters will encourage indiscipline, lead to unjust enrichment of the employee at fault and result in drain of public exchequer. Many a time there is also no application of mind as to the extent of financial burden, as a result of a routine order for back-wages.

10. We are constrained to refer to the several facets of the issue only to emphasize the need for circumspection and care in issuing directions for 'consideration'. **If the representation is on the face of it is stale, or does not contain particulars to show that it is regarding a live claim, courts should desist from directing 'consideration' of such claims.**"

8.8. In *Union of India Vrs. C. Girija*, (2019) 2 SCR 131 it has been observed that:

"13. This Court again in the case of *Union of India and Others Vrs. M.K. Sarkar*, (2010) 2 SCC 59 on belated representation laid down following, which is extracted below:

- '15. **When a belated representation in regard to a 'stale' or 'dead' issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to**



do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the 'dead' issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. **Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.'**

14. Again, this Court in *State of Uttaranchal and Another Vrs. Shiv Charan Singh Bhandari and Others*, (2013) 12 SCC 179 had occasion to consider question of delay in challenging the promotion. The Court further held that representation relating to a stale claim or dead grievance does not give rise to a fresh cause of action. In Paragraph Nos. 19 and 23 following was laid down:

'19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time.

23. In *State of T.N. Vrs. Seshachalam*, (2007) 10 SCC 137, this Court, testing the equality clause on the bedrock of delay and laches pertaining



to grant of service benefit, has ruled thus: (SCC p. 145, para 16)

‘16. *** **filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a Government servant may deprive him of the benefit which had been given to others.** Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.’

15. This Court referring to an earlier judgment in *P.S. Sadasivaswamy Vrs. State of Tamil Nadu*, (1975) 1 SCC 152 noticed that a person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. In Paragraph No.26 and 28, following was laid down:

‘26. Presently, sitting in a time machine, we may refer to a two-Judge Bench decision in *P.S. Sadasivaswamy Vrs. State of T.N.*, (1975) 1 SCC 152, wherein it has been laid down that: (SCC p. 154, para 2)

‘2. *** A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six



months or at the most a year of such promotion. It is not that there is any period of limitation for the courts to exercise their powers under Article 226 nor is it that there can never be a case where the courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters.'

28. *Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion. We may hasten to add that the same may not be applicable in all circumstances where certain categories of fundamental rights are infringed. But, a stale claim of getting promotional benefits definitely should not have been entertained by the Tribunal and accepted by the High Court.' ***"*

8.9. With the background facts as narrated in the foregoing paragraphs and delineated legal perspective enunciated by the Hon'ble Supreme Court of India as referred to



above, this Court, therefore, restrains itself from exercising extraordinary discretionary power under Articles 226 and 227 of the Constitution of India.

Conclusion:

9. In the wake of aforesaid discussion and for the reasons ascribed hitherto, this Court being conscious of the fact that the covenants of lease deed are binding between the parties and if at all the petitioner was not agreeable to the stipulated validity period up to 24.10.2025 instead of 23.05.2026 as reflected in the supplementary lease deed, it could not have executed said deed on 01.07.2019. The record evinces that in response to Letter dated 12.02.2019 of the Government of Odisha in Steel and Mines Department (Annexure-4), the petitioner brought to the notice of concerned authority with specific reference to Letter dated 02.05.2006 (Annexure-6) of the said Department of the Government of Odisha requesting to treat "24.05.1976" as the date for reckoning of grant of lease for the purpose of computation of fifty years in order to derive benefit of sub-sections (3) and (6) of Section 8A of the MMDR Act as amended in the year 2015 read with Rule 31(2) of the MC Rules, by way of Letter dated 18.02.2019 (Annexure-5); yet while signing the supplementary lease deed on 01.07.2019 he undertook to abide by all the terms and conditions stipulated therein. Therefore, it can safely be



said that the petitioner waived and/or acquiesced with and accepted the date of validity period as 24.10.2025 as recorded in the supplementary lease deed. This apart, there is no iota to depict that the petitioner thereafter immediately took up remedial measures to rectify or modify such date of validity as was available to him under law.

9.1. On the score of computation of fifty years for the purpose of extension of tenure of lease this Court finds no merit in the submissions and the arguments advanced by Sri Sudarshan Nanda, learned Counsel for the petitioner.

10. Being consciously aware of the facts, terms and conditions stated in the supplementary lease deed the petitioner executed by putting his signature and said deed was registered on 01.07.2019 with the stipulation as to validity of period of lease would be up to 24.10.2025 computed from 25.10.1975 (fifty years in terms of Section 8A of the MMDR Act). Nonetheless, he approached the authority concerned by way of representation at the fag end, *i.e.*, 22.10.2025 (Annexure-15), this Court refrains itself from passing any order directing the opposite parties to consider the representation by treating the date of registration of original lease deed, *i.e.*, 24.05.1976 as the date of commencement of lease period so that the expiry of



tenure of lease would get extended till 23.05.2026; doing so would be contradictory to the covenants of supplementary lease deed which are binding between the Government of Odisha (lessor) and Sri Birat Chandra Dagara (lessee). This Court is not oblivious that it is not empowered to rewrite the contract for the parties.

10.1. The question whether add-on period of twenty months due to circumstances which alleged to have prevented the lessee from operating mining during subsistence of lease period could be directed to be added to the original lease period as stipulated in the lease deed in exercise of power under Articles 226 and 227 of the Constitution of India fell for consideration of this Court in *Ramesh Prasad Sao Vrs. State of Odisha, 2019 (III) ILR-CUT 613*. Having taken note of provisions of the MMDR Act *inter alia* Section 8A(6) as amended in the year 2015 and nuances of Form K prescribed under Rule 31 of the MC Rules, 1960, the claim of the petitioner therein was negative with the following observations:

“2. *The petitioner, who is the Lessee in respect of Guali Iron Ore Mines situated over an area of 365.026 hectares in village Guali, Panduliposi, Topadihi, Loidapada and Rugudihi and Sidhamatha reserve forest under Barbil Tahasil in Champua Sub-Division of Keonjhar district, has filed the present writ petition seeking restoration of the lost period (from 27.06.2013 to 16.05.2014, i.e., 10 months and 20 days and from 23.05.2015 to 10.04.2018, i.e., 34*



months and 19 days); thus total period of 45 months and 09 days, for which the Lessee could not operate its mines due to interruptions/disruptions caused which was beyond the control of the Lessee, more particularly when such disruptions were caused mainly by the act or omission on the part of the authorities of the State Government. He further submitted that various legal proceedings are pending before this Court and the Hon'ble Supreme Court in respect of the mines in question.

13. We have heard the learned counsel for the parties and perused the record.

13.1 In view of MMDR Amendment Act, 2015, and more particularly there is no extension on record after 2013 and **the petitioner having accepted the supplementary lease deed of 2015 up to 31st March, 2020, in our considered opinion, it would not be appropriate to extend the lease period or grant the petitioner 45 months and 9 days contrary to Section 8A(6) of the MMDR Act.** The lease period which was accepted by both the sides up to 31st March, 2020 is in consonance with the MMDR Amendment Act, 2015. In that view of the matter, the petitioner cannot be allowed to operate the mines beyond 31st March, 2020, which will contravene the provision under Section 8A(6) of the MMDR Act. In that view of the matter, the contention of the petitioner that the affidavit which was filed before the Hon'ble Supreme Court and referred to hereinabove with reference to the present context, cannot yield any benefit to the petitioner in view of the explanation of learned Advocate General to the



effect that the Hon'ble Supreme Court, in a proceeding pending before it, directed the State Government to give list of each mine holders, whether they have complied with the statutory requirement or not. **Having accepted the supplementary lease, without any demur in 2015, the petitioner cannot possibly raise any objection for the period prior to execution of the said lease.** However, it will not be appropriate to allot the mining lease in favour of a Government owned Corporation as per provisions of Section-17A of MMDR Act. But, here it is at such preliminary stage of decision making process by the State Government, Section-17A will not come into play.

14. In view of the discussions made above, the case laws those are pressed into service by learned counsel for the petitioner are not applicable to the facts and circumstances of the present case, since in those cases, order of cancellation of lease was found to be illegal. But, in the instant case, it was not cancellation of lease but non-extension of the lease. **In view of Clause-4 of Form-K (Part-IX), referred to and reproduced hereinabove, the petitioner will not be disturbed for a period of six months beyond the lease period, i.e., 31st March, 2020 so as to enable him to remove the stacked materials and machineries etc. It is made clear that the petitioner cannot operate the mining beyond 31st March, 2020.**
15. With the aforesaid observations and direction, the writ petition is disposed of.”



10.2. Taking into consideration the decision rendered in *Ramesh Prasad Sao Vrs. State of Odisha, 2019 (III) ILR-CUT 613* this Court in yet another case, being *JDL Lime Stone and Dolomite Mines Vrs. State of Odisha, 2024 SCC OnLine Ori 1024*¹² observed as follows:

“29. Referring to the statement of objects and reasons behind the enactment of the Act 10 of 2015, the Karnataka High Court in the case of *Shantipriya Minerals Pvt. Ltd. Vrs. State of Karnataka, 2020 SCC OnLine Kar 414* has held that **one of the basic objects of the Act 10 of 2015 was to make auction as the only mode of grant of mining concession as the existing provisions of the MMDR Act did not permit auctioning of mineral concessions. Another object was to eliminate discretion and improve transparency in the allocation of mineral resources.** Another salient feature, *inter alia*, of Act 10 of 2015 was ‘removal of discretion’ and the introduction of the auction to be the sole method of allotment of mineral concession. **By the amendment, the tenure of the mining lease was extended from 30 years to 50 years.** We respectfully concur with the view taken by the Division Bench of the Karnataka High Court in the case of *Shantipriya Minerals Pvt. Ltd. (supra)* while referring to the basic objects of Act 10 of 2015.

¹² Petition(s) for Special Leave to Appeal (C) No.5529 of 2024 before the Hon’ble Supreme Court of India challenging the Judgment dated 20.02.2024 rendered in W.P.(C) No.11475 of 2023 got dismissed with the following Order dated 11.03.2024:

- “1 We are not inclined to entertain the Special Leave Petition under Article 136 of the Constitution of India.
- 2 The Special Leave Petition is accordingly dismissed.
- 3 Pending applications, if any, stand disposed of.”



30. *After having observed so, the Karnataka High Court in case of Shantipriya Minerals Pvt. Ltd. (supra) has viewed that by virtue of sub-section (4) of Section 8-A of the MMDR Act, 1957, wherever extension of mining lease is granted under any of the provisions of Section 8-A on expiry of the extended lease period, the lease had to be put up for auction and, extension beyond the period provided in sub-Section 6 of Section 8-A of the Act cannot be granted. We are in respectful agreement with the said view also of the Karnataka High Court in the case of Shantipriya Minerals Pvt. Ltd. (supra).*
31. *The division Bench of this Court in the case of Ramesh Prasad Sao (supra) had the occasion to deal with a similar circumstance where the petitioner of that case claimed restoration of lost period relying on clause-4 of Form-K, Part-IX of Mineral Concessions Rules, 1960, the force majeure clause on the similar ground that interruption/disruption were caused for a considerable period of 10 months and 20 days, mainly, on account of the act or omission on the part of the authorities of the State Government and pendency of the various legal proceedings before this Court and the Supreme Court in respect of mines in question in that case. This Court, after having referred to the decisions in the case of Beg Raj Singh Vrs. State of U.P., (2003) 1 SCC 726 and Dharam Veer Vrs. Union of India, 1988 (II) ILR-Delhi 71 concluded in paragraph 13.1 which reads as under:*
- “***”
32. *We find substance in the submissions made by Mr. Parija, learned Advocate General that the present case is squarely covered by the coordinate Bench*



decision of this Court in the case of Ramesh Prasad Sao (*supra*). We see no reason, based on the submissions advanced on behalf of the petitioners to take a different view than what was taken by this Court in the case of Ramesh Prasad Sao (*supra*).

33. **It would be pertinent at this juncture to notice that admittedly, the supplementary lease deed was executed on 30.03.2016.** Under an order passed by the Director of Mines, the lessee was allowed to resume the mining operation from 05.11.2015. The original lessee, without any demur, accepted the terms of the lease deed which not only mentioned the date, i.e., 20.02.2024 up to which the validity period of the lease was being extended, but it contained specific reasons why such extension was being granted up to 20.02.2024 with reference to Section 8-A of the MMDR Act. **The lessee continued its mining operation on the strength of the said supplementary lease deed without raising any objection and, thus, knowing it fully well that the validity period of the lease was up to 20.02.2024.**

34. As has been noted above, it is not the case of the lessee that there was any disruption or interruption in carrying out the mining activities after resumption from 05.11.2015 till date. The lessee knew that by virtue of Section 8-A of the MMDR Act, the validity period of the lease was being extended up to 20.02.2024 upon completion of 50 years from the date of the original lease, i.e., 21.02.1974. It transpires from the pleadings on record that more than 06 years after execution of lease deed, the lessee made a representation on 04.07.2022 before



the Principal Secretary to Department, Department of Steel and Mines (opposite party No. 1) to restore the mining lease period for 03 years and 10 months invoking clause-4 of Part-IX of the original lease deed dated 21.02.1974 read with Rule 12(1)(ff) of the Rules of 2016).

35. ***The lessee, in our considered opinion, cannot be permitted to raise a grievance now after having specifically agreed to the validity period of the lease up to 20.02.2024. After having agreed to the terms and conditions of the supplementary lease deed and acted thereupon, the lessee cannot turn around and raise a grievance in relation to the period before the execution of the supplementary lease deed, which the lessee had not raised at any point in time. The doctrine of acquiescence is an equitable doctrine, which applies when a party having a right stands by and sees another dealing in a manner inconsistent with that right, while the act is in progress and after violation is completed, which conduct reflects his assent or accord. He cannot afterwards complain. (See Pravakar Vrs. Joint Director, Sericulture Department, (2015) 15 SCC 1). The term acquiescence means silent assent, tacit consent, concurrence, or acceptance.***
36. ***It is noteworthy that an argument has been advanced on behalf of the petitioners that there cannot be any estoppel against the law and the period during which the lessee was not allowed to continue mining operation, was required to be added beyond the period of 50***



years by operation of force majeure clause in the original lease deed read with Rule 12(1)(ff) of the Rules of 2016. We do not find any force in such submission. Firstly, for the reason that we have concurred with the view taken by a Division Bench of the Karnataka High Court in the case of *Shantipriya Minerals Pvt. Ltd. (supra)* to the effect that **the period of a lease cannot be extended beyond that prescribed period under the provisions of Section 8-A of the MMDR Act.** Further, the case of lessee cannot be distinguished from the case of *Ramesh Prasad Sao (supra)* on the ground that was a case of an extension under sub-section (6) of Section 8-A of the MMDR Act. Sub-section (6) of Section 8-A is not a non-obstante clause and applies in such cases where the mineral is used other than captive purpose and provides that in such circumstance, the same shall be extended and be deemed to have been extended up to a period ending on 31.03.2020 with effect from the date of the expiry of renewal of lease made or till completion of renewal period, if any, or a period of 50 years from the date of grant of such lease, “whichever is later” subject to the condition that all the terms and the conditions of the lease have been complied with. Sub-section (3) of Section 8-A of the Act is clear in its expression and states that the mining lease granted before the commencement of the Act of 2015 shall be deemed to have been granted for a period of 50 years. On the expiry of the lease period, Section 4 in no certain terms, stipulates that the lease shall be put up for auction as per the procedure specified in the MMDR Act.



37. Keeping in mind the statement of objects and reasons for the enactment of Act 10 of 2015 and the lessee's tacit consent at the time of execution of the lease deed for a period up to 20.02.2024, we are of the opinion that no case is made out for the addition of period beyond 50 years, i.e., beyond 20.02.2024 applying force majeure clause, in the present proceeding under Article 226 of the Constitution of India.

38. We, therefore, do not find any merit in the writ petition, which is, accordingly, dismissed."

10.3. In such view of the matter, on the facts and in the circumstances of the case, this Court declines to exercise its power under Articles 226 and 227 of the Constitution of India to direct the authority concerned to consider the representation *vide* Annexure-15 series.

11. Under the above premises, this writ petition, being devoid of merit, is dismissed.

12. In the result, the writ petition including pending Interlocutory Application(s), if any, stands disposed of; but in the circumstances, there shall be no order as to costs.

I agree.

**(HARISH TANDON)
CHIEF JUSTICE**

**(MURAHARI SRI RAMAN)
JUDGE**