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WP-38302-2024

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

WRIT PETITION No. 38302 of 2024

SHAMA KHAN

Versus

STATE OF MP AND OTHERS

Appearance:

Ms Purwa Jain - Advocate for the petitioner.

*Shri Vishwajit Joshi – Additional Advocate General for the
respondent / State.*

Shri Jitendra Verma – Advocate for the respondent No.1.

WITH

WRIT PETITION No. 32868 of 2024

DEEPAK VERMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Vivek Dalal - Advocate for the petitioner.

*Shri Vishwajit Joshi – Additional Advocate General for the
respondent / State.*

Shri Jitendra Verma – Advocate for the respondent No.1.

Ms Purwa Jain – Advocate for the respondent No.5.

Reserved on : 23.06.2025

Delivered on : 04.07.2025.

ORDER

Per: Justice Vivek Rusia

These two writ petitions are being heard and decided together



as they arise out of interrelated disputes concerning the grant and renewal of mining leases over the adjoining land of Khasra Nos. 33/1/4/3 and 33/1/4/4 each admeasuring 3.642 hectares situated in Village Rawad, Tehsil Depalpur Indore which relates to stone quarrying operations and is governed by the provisions of the **Madhya Pradesh Minor Mineral Rules, 1996** (hereinafter referred as "Rules, 1996").

I. In W.P. No. 38302 of 2024 - Shama Khan vs. State of M.P.

02. The petitioner Shama Khan has approached this Court seeking enforcement of his leasehold rights and direction for enquiry and action against officials and responsible authorities involved in the illegal grant of lease in favour of third parties.

03. The case of the petitioner is that he is the legitimate lessee and has been granted a separate mining lease for Khasra No.33/1/4/3 admeasuring 3.642 hectares for which a lease deed was executed in his name on 10.09.2018 which is valid from 21.07.2018 to 20.07.2028 for stone quarrying and establishment of mining operations. Based on this lease, the petitioner had installed machinery at the site and commenced stone quarrying operations in accordance with all applicable rules and regulations.

04. The dispute arose in 2023 when one Mr. Badrilal Damor a third party the lessee of adjoining Khasra No.33/1/4/3/1 admeasuring 2 hectares had filed W.P. No.28475/2023 before this Court alleging that Shama Khan had encroached upon his lease area. Acting upon the allegations but without issuing any notice to the petitioner, the Revenue Inspector conducted a demarcation and submitted a report to the Tehsildar alleging encroachment by Shama Khan. Based on this report, the Collector and authority also ordered the removal of encroachment.

05. This Court also vide order dated 30.11.2023 in that petition ordered for compliance to be done by the Tehsildar. Pursuant to the



above orders, demolition proceedings for the removal of encroachment were initiated on 15.12.2023 causing a portion of the petitioner's installed machinery to be dismantled resulting in heavy financial loss to the present petitioner/Shama Khan.

06. The petitioner contended that he came to know about the proceedings by Badrilal only on the date of demolition as he was not made a party to that petition and thus, immediately filed an intervention application in that petition.

07. Pursuant to the filing of the application this Court by its order dated 18.12.2023 stayed the demolition and directed a fresh demarcation of both lease areas—Survey No. 33/1/4/3 (claimed by Shama Khan) and Survey No. 33/1/4/3/1 (claimed by Badrilal). The survey report filed subsequently confirmed that Shama Khan was operating within his demarcated area and that geo-referenced coordinates assigned to the lease of Badrilal overlapped the land already allotted to Shama Khan indicating lapses.

08. This Court in its final order dated 23.01.2024 observed that there are dispute of facts and directed the Mining Officer, Indore to resolve the dispute within 60 days. Pursuant to the final order of this Court, the Upper Collector (Mining), Indore called for a report from the Superintendent Land Records (SLR) who submitted a detailed report on 12.03.2024. On the basis of the SLR report and the documents submitted by Badrilal, the Upper Collector passed an order dated 05.04.2024 directing that the leases granted to Badrilal, Deepshree Infrastructure and Shakuntala Bhalse be cancelled due to fraudulent and backdated documents, including suspicious NOCs.

09. The Upper Collector also directed the District Mining Officer to conduct an inquiry into the role of officials of the Mining Department who facilitated such irregular allotments and to recommend disciplinary



action against them. During the pendency of these petitions, the petitioner was also served with a notice dated 16.12.2024 imposing a penalty of Rs.29,06,87,170/- for alleged illegal excavation.

10. Apprehending further interference with the mining operations and adverse actions by the respondents, the petitioner has filed the present writ petition seeking protection for his lease rights and direction for initiation of disciplinary proceedings against erring officers.

II. In W.P. No. 32868 of 2024 - Deepak Verma vs. State of M.P.

11. The petitioner / Deepak Verma son of Kishanlal Verma has approached this Court seeking quashment of the renewal order and lease deed by which his mining lease in Khasra No. 33/1/4/4 had wrongfully and fraudulently been renewed in the name of respondent No. 5/Shama Khan.

12. The case of the petitioner is that he was initially granted a mining lease for Khasra No. 33/1/4/4 by the competent mining authority on 21.07.1998 for ten years and later on the said lease was again legally renewed for a further term of ten years on 28.04.2008.

13. As the lease period was nearing its term, the petitioner for the purpose of renewing it again executed a power of attorney dated 08.08.2017 in favour of Respondent No. 5 / Shama Khan authorizing him to carry out ministerial work in connection with the renewal process. Pursuant to the said power of attorney on 06.04.2018 Respondent No. 5 / Shama Khan submitted an application for renewal of lease before the Mining Officer, Indore.

14. The Mining Officer passed a renewal order on 19.07.2018 renewing the lease for a term of 10 years i.e. 21.07.2018 to 20.07.2028 and executed a lease deed on 10.08.2018 but it was not renewed in favour of the petitioner rather it was granted and executed in favour of Respondent No.5 / Shama Khan. The petitioner was completely unaware



of the above order and any other subsequent developments for several years and it was only on 03.09.2024 that while making informal inquiries regarding the status of the mine he came to know that the lease had been granted in the name of respondent No.5.

15. Immediately, on 06.09.2024 he filed an application under the Right to Information Act, 2005 and obtained certified copies of the renewal order, the lease deed and other related documents. On perusal of this, he discovered that the power of attorney was illegally used to take over the leasehold rights of the petitioner through fraudulent means and that the entire transaction was vitiated by fraud and breach of trust done in connivance with officials of the Mining Department and also that no transfer fee as required under Rule 35 of the M.P. Minor Mineral Rules, 1996 was ever paid.

16. Against this illegal renewal order, the petitioner approached the department but despite making repeated representations no corrective action was taken by the authorities. The petitioner contends that instead of getting the lease renewed in the name of petitioner the respondent No.5 in collusion with the officials of the Mining Department got the lease illegally renewed in his own name. The petitioner contended that all of this was done without his knowledge, consent or authorization and that he had never intended or authorized the power of attorney holder to obtain the lease in his own name.

17. The petitioner having no other alternative remedy has filed the present writ petition seeking the relief of quashing of the renewal order dated 19.07.2018 and lease deed dated 10.08.2018 executed in favour of Shama Khan and further seeking a direction to the mining authorities to renew and grant the lease in favour of the petitioner.

Facts disclosed in the Interlocutory Application:

18. During the pendency of the writ petition, an interlocutory



application was filed on behalf of respondent no. 5 / Shama Khan praying for the impleadment of Shri Kishanlal Verma and Shri Liladhar Verma respectively as party respondents in the present petition. The said application was accompanied by an affidavit and supporting documents raising serious allegations concerning the origin and continuation of the mining lease in favour of the petitioner.

19. In the application, it was submitted that the petitioner/Deepak Verma was born in the year 1990 and was only around eight years of age at the time when the initial application dated 27.08.1997 was made in his name for a grant of lease over Khasra No. 33/1/4/3. It was further averred that the petitioner's age was incorrectly stated as 18 years in the year 1997 application and the same was allegedly supported by an affidavit and documentation orchestrated by his father Shri Kishanlal Verma with the intent to obtain the lease by fraudulent means.

20. The application pointed to the forged execution of the agreement dated 21.07.1998 for the grant of lease wherein the signature purportedly made by the petitioner was allegedly fabricated and the father of the petitioner was shown as a witness. At the time of renewal in 2008 of the said mining lease for another 10-year term from year 2008 to 2018, the brother of petitioner Shri Liladhar Verma had affixed his signature as a witness thereby indicating a continuing involvement of both Kishanlal and Liladhar Verma in the mining operations conducted in the name of the petitioner.

21. In the said application it was also submitted that Shri Kishanlal Verma had executed a sale agreement dated 18.02.2017 with respondent No.5/Shama Khan in respect of the subject mine and associated machinery in the name of the petitioner/Deepak Verma while pasting his photograph and accepting consideration amounting to ₹62,51,000/- thereby transferring a government lease in contravention of the



provisions of the Madhya Pradesh Minor Mineral Rules, 1996.

Submissions in W.P. No. 38302 of 2024 – (Shama Khan vs. State of M.P.)

Submission of petitioner/Shama Khan:

22. Ms Purva Jain, learned counsel appearing for the petitioner/Shama Khan submitted that the impugned action of the authorities including the demolition of the operational setup of mining and subsequent imposition of an exorbitant penalty has been done arbitrarily without due notice or adherence to the principles of natural justice. Learned counsel submitted that despite clear directions from the Upper Collector, no inquiry has been initiated till date and no action has been taken by the Mining Department.

23. Learned counsel submitted that the entire penalty had been imposed based on alleged excavation figures which were not excavated only by the petitioner especially when the departmental report itself records that no data is available regarding the extent of prior excavation by earlier leaseholders or permit holders and the fastening of the liability on the petitioner alone without any justifiable reason is contrary to law.

24. Learned counsel submitted that the petitioner has been lawfully operating the mine without violating any law and had also taken a loan of 2 crores for operating the same but the arbitrary actions of the respondents including the officials are creating new hurdles every day for the petitioner to smoothly operate the mine and causing huge loss to the petitioner.

25. Learned counsel submitted that the private respondents and the State authorities are working in cahoots to not let the petitioner operate the mines despite having all legal permissions and thus prayed for a petition to be allowed.

Submission of Respondents No. 1 to 4 / State:



26. Reply is filed by the respondent Nos. 1 to 4. Learned Additional Advocate General appearing for the State submits that the present writ petition is not maintainable and that pursuant to the directions issued by this Court an inquiry was duly conducted by the competent authority in accordance with the provisions of the Madhya Pradesh Minor Mineral Rules, 1996.

27. Learned Additional Advocate General submitted that in compliance thereof, case No.631/B-121/23-24 was registered and upon examination of the demarcation reports and after site inspections it was found that the petitioner Shama Khan had unlawfully conducted mining operations over an area of 5.049 hectares significantly exceeding the lease area originally allotted.

28. This encroached land included overlapping areas with other lessees, namely Smt. Shakuntala Bhalse and Shri Badrilal Dabar. Learned Additional Advocate General further submitted that the petitioner was a signatory to the *panchnama* prepared at the time of inspection and had raised no formal objection against the demarcation or the findings thereof.

29. Learned Additional Advocate General submitted that the order passed by the Additional Collector (Mining), Indore clearly records that due to gross negligence in the demarcation and lease allotment process overlapping of leases took place and the petitioner taking advantage of which had undertaken large-scale illegal mining in the lease area allotted to another lessee, Smt. Deepshree. For such illegal mining, separate proceedings were initiated in which heavy penalty was imposed and the lease of all encroachers was cancelled. Learned counsel further submitted that the impugned order also directed an inquiry against erring departmental officers which is under process.

30. Learned counsel submitted that the lease cancellation was a



result of a lawful proceeding conducted after affording due opportunity of hearing to the affected parties and that the petitioner has suppressed material facts and filed the present writ petition despite having a clear statutory alternative remedy of appeal under Rule 57 of the M.P. Minor Mineral Rules, 1996. Learned counsel thus prayed that the petitions suffer from misrepresentation and deserve to be dismissed.

Submissions on behalf of Respondent No. 9 / Badrilal Dabar:

31. Reply is filed. Learned counsel for respondent No.9 submitted that the writ petition is liable to be dismissed at the threshold on the ground of alternative remedy and that the petitioner has directly approached this Court without exhausting the statutory remedy and without disclosing material facts. Learned counsel submitted that the petitioner was found in illegal possession of 1.705 hectares over and above the leased area as established by a detailed demarcation and spot inspection conducted in the presence of the petitioner and the preparation of a *panchnama* duly signed by him.

32. Learned counsel submitted that the competent authority duly proceeded to cancel the lease and that the petitioner has neither challenged the inspection report nor the findings of the Tehsildar or the Superintendent, Land Records and, therefore, has no cause to question the consequential order of cancellation. Learned counsel submitted that the lease was originally allotted to Shri Deepak Verma and not to the petitioner, thus, the petitioner lacks *locus standi* and prayed that no interference is warranted in the present writ petition and that the petition be dismissed.

Submissions in W.P. No. 32868 of 2024 – (Deepak Verma vs. State of M.P.)

Submission of Petitioner/ Deepak Verma:

33. The petitioner has filed a rejoinder to the reply filed by the



respondents. Shri Dalal, learned counsel appearing for Petitioner/Deepak Verma submitted that the allegation regarding the power of attorney dated 08.08.2017 being executed for the purpose of renewal of the mining lease is wholly misconceived.

34. Learned counsel further submitted that the renewal application dated 06.04.2018 was filed by him in his own name and not through any attorney and further submitted that the said power of attorney was issued for a limited scope authorizing respondent No.5/Shama Khan only to undertake miscellaneous work including operation of crusher machinery during the unexpired period of lease i.e. from 08.08.2017 to 20.07.2018.

35. Learned counsel submitted that the agreement dated 18.02.2017 relied upon by respondent No.5 pertains to the transfer of plant and machinery, fixed assets and ancillary structures and not the mining rights. Moreover, the payment obligations under the said agreement have not been fulfilled in entirety to date and only the first cheque for Rs.6,00,000/- was honoured and the remaining cheques were dishonoured thereby rendering the agreement inoperative for lack of consideration. Shri Dalal, learned counsel admits that in the year 1997, Deepak Verma was 9 years old and the lease was granted to him under the guardianship of his father. However, he has failed to explain the age written 18 years old in the affidavit submitted in the year 1997.

Submissions of Respondents No. 1 to 4/State:

36. Reply is filed by the Respondent No. 1 to 4. Learned Additional Advocate General appearing for the State submitted that the writ petition is not maintainable in view of the availability of an alternative and efficacious statutory remedy under the provisions of the Madhya Pradesh Minor Mineral Rules, 1996 wherein complete appellate framework under **Rules 57 and 59** has been provided to aggrieved party to challenge any order passed by the competent authority. Reliance is



placed on the decisions of the Hon'ble Apex Court in ***Hindustan Coca Cola Beverages Pvt. Ltd. v. Union of India*** reported in (2014) 15 SCC 44; ***Hameed Kunju v. Nizam*** reported in (2017) 8 SCC 611 and ***Ansal Housing & Construction Ltd. v/s State of U.P.*** reported in (2016) 13 SCC 305 wherein it has been held that when a statutory appellate remedy exists the writ petition ought not to be entertained.

37. Learned Additional Advocate General submitted on merits that the petitioner/Deepak Verma himself had earlier appointed respondent no. 5/Shama Khan as his power of attorney holder for the purpose of lease-related proceedings. Learned counsel submitted that the lease deed dated 10.08.2018 though referred to as a renewal appears from the record to be in the nature of a fresh allotment. Learned counsel submitted that the petitioner was well aware of the events that resulted in the execution of the impugned lease deed and has approached this Court belatedly having remained a passive spectator for several years.

38. Learned counsel submitted that the conduct of the petitioner indicates acquiescence with respondent No.5 and gives the impression of an internal dispute which has given rise to present litigations and suggests an attempt to raise stale claims with ulterior motives. Learned counsel further submitted that in case the petitioner is aggrieved by any alleged irregularity or misuse of authority by respondent no. 5 the proper remedy would be to submit a representation or complaint before the competent authority which shall consider it in accordance with law.

39. Learned counsel submitted that the present writ petition is also liable to be dismissed at the threshold on the ground of delay and laches as the mining lease in favour of respondent No.5/Shama Khan was executed on 10.08.2018 pursuant to the renewal order dated 19.07.2018. However, the petitioner approached this court only in the year 2024 after a lapse of more than six years without furnishing any plausible



explanation for such inordinate delay and thus prayed that the writ petition be dismissed. The Mining Officer Indore present in the Court has failed to explain the illegality committed in the department in respect of the grant of lease to a minor and renewal of the same lease in the name of Shama Khan.

Submissions of Respondent No. 5/Shama Khan:

40. A reply has been filed. Ms. Purva Jain, learned counsel appearing for the Respondent No.5 / Shama Khan submitted that the present petition is liable to be dismissed as the petitioner has approached this court with unclean hands and has failed to disclose material facts. Learned Counsel submitted that pursuant to a duly executed sale agreement dated 18.02.2017 the petitioner had transferred his mining interest and operational setup on khasra No. 33/1/4/3 (3.642 hectares) in favour of the Respondent No.5/Shama Khan for a consideration of Rs.62,51,000/- and further had also executed a Power of Attorney on 08.08.2017 authorizing him to undertake renewal and mining operations. Learned Counsel submitted that both Kishanlal and Liladhar Verma the father and brother of the petitioner had not only participated in executing such an agreement but had also received the sale consideration which is reflected in their bank statement.

41. Learned counsel submitted that having paid the outstanding dues including dead rent and had moved a renewal application dated 06.04.2018 bearing the renewal expenses as per the sale agreement. The competent authority upon conducting physical verification had found Respondent No. 5 fit and competent under Rule 18(2) of the Madhya Pradesh Minor Mineral Rules, 1996 and accordingly had renewed the lease vide order dated 19.07.2018 followed by execution of lease deed on 10.08.2018 in favour of respondent No.5.

42. Learned counsel submitted that under the Indian Contract Act,



1872 any agreement entered into by a minor is void *ab initio* and hence, the original lease agreement dated 21.07.1998 was a legal nullity and is an alleged commission of fraud, forgery, misrepresentation and cheating by the father of the petitioner and other involved persons including officials of the mining department and are liable for appropriate legal and penal consequences under Rules 18 and 19 of the M.P. Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2022.

43. Learned counsel submitted that the present writ petition being a second attempt after dismissal in W.P. No. 14195/2024 is a misuse of the writ jurisdiction and deserves outright dismissal.

Appreciations and Conclusion:

44. It appears from the above-narrated facts that Deepak Verma and Shama Khan were close associates in the mining business and now differences have arrived between them hence, they are exposing the conduct of each other.

45. From the aforesaid facts, the following irregularities and illegalities committed by all the parties to the writ petitions including government officials have emerged:

- i. Petitioner Deepak Verma was aged about 7 years on 27.08.1987 when the mining lease of land bearing survey No.33/1/4/3 was granted to him.
- ii. He wrongly declared his age 18 years in an affidavit on 27.08.1997.
- iii. Hence mining lease was wrongly granted to him by the office of the collector (Mining) Indore contrary to the provisions of the law.
- iv. The aforesaid lease dated 21.07.1998 was wrongly renewed by the Office of Collector, Indore vide order No.906/Mining/2007 dated 28.04.2008 up to 20.07.2018



because at that time also Deepak Verma was minor.

- v. Deepak Verma had wrongly sold the said lease to Shama Khan S/o Abdul Rehman Khan vide agreement dated 18.02.2017 without permission from the Mining Department which is also illegal.
- vi. Shama Khan submitted an application in the name of Deepak Verma being a power of attorney holder and the mining lease has wrongly been granted in his name by the Collector (Mining) on 10.08.2018.

46. Since the application was filed by Shama Khan as a power of attorney holder in the name of Deepak Verma, therefore, there is no explanation by the respondent as to why the lease has been granted in his name. Shama Khan has no right to get the mining lease of survey No.33/1/4/3 despite that he has been indulging in a dispute with Badrilal, Shakuntala Bhalse who has a mining lease of nearby land, etc. There is an allegation against Shama Khan that he illegally did the mining activities on 5049 hectares of the land for which the Additional Collector, Indore vide order dated 05.04.2024 had already directed for initiation of proceeding for cancellation of the lease. The petitioner Deepak Verma has made an allegation that out of Rs. 6,25,100/-, Shama Khan has only paid Rs.6,00,000/- in execution of the agreement dated 18.02.2017. This is an internal dispute between Deepak Verma and Shama Khan for which Deepak Verma is free to initiate action under civil law.

47. Therefore, in view of the aforesaid glaring illegality in allotment of mining lease, renewal and sale, would not have been done without connivance with the officers of the Mining Department of Indore. The entire matter is liable to be investigated under the provisions of the Prevention of Corruption Act, 1988 by Special Police



Establishment. Hence, the Superintendent of Police of Special Police Establishment, Indore is directed to register an FIR and investigate in accordance with the law.

48. Shama Khan approached thrice before this Court by way of Writ Petition Nos.3327/2024, 10238/2024 and Review Petition No.1136/2024 leveling allegations against leaseholders of the neighbouring mines about encroachment, illegal allotment, etc. He has wasted lots of time in this Court in these frivolous litigations. Had there been no dispute between Deepak Verma and Shama Khan, this illegality and irregularity in the allotment of the mining lease would not have been exposed before this Court. The Mining Department by filing a reply could not explain the illegalities in the allotment of mining lease in favour of initially Deepak Verma and thereafter Shama Khan.

49. With the aforesaid, both the present Writ Petitions are hereby **dismissed** with the cost of **Rs.50,000/- (Rupees Fifty Thousand Only)** each. The mining lease of Khasra No. 33/1/4/4 dated 10.08.2008 by the Competent Mining Authority issued in favour of Shama Khan is hereby cancelled. The recovery proceedings be initiated for illegal mining against Deepak Verma and Shama Khan. Action be also taken against Deepak Verma who has obtained the lease by swearing a false affidavit.

50. Let a photocopy of this order be kept in the record of Writ Petition No.32868 of 2024.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE