

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-126 of 2019

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Yousuf Ali Sayeed.

Nasir Riaz.....Petitioner

Versus

Sindh, through Secretary, Mines & Minerals Department,

& others.....Respondents

Date of hearing 22.01.2020

Mr. Zubair Ahmed Abro advocate for the petitioner.

Mr. Ahmeduddin Hanjrah advocate for the respondent No. 3
to 5

Syed Sahib Bukhari, Law Officer, Mines & Minerals
Department, Government of Sindh.

Mr. Jawad Dero, Addl. A.G.

Muhammad Ali Mazhar, J: The petitioner has preferred this petition with the plea that he is owner of land bearing survey No. 1733 to 1768, measuring 140-10 acres in DEh & Tapo Kalokhohr, Taluka Thano Bola Khan, district Jamshoro which entry is already available in the revenue record at page No. 0661049 of Book No. 06611 and land measuring 44-32 in the same Deh which is also entered in the revenue record. The grievance of the petitioner is that the respondent No. 3 to 5 in violation of the Sindh Mining Concessional Rules, 2002 are extracting minerals from private land including the land of the petitioner. They further sought directions against the respondent No. 1 & 2 to take immediate action against the respondent No. 3 to 5 for the violation of the aforesaid Rules.

Learned counsel for the petitioner pointed out page No. 27 of the court file which is a notification dated 20.03.2011 which shows that in pursuance of Rule 87 of the Sindh Mining Concession Rules, 2002, the mining permit for limestone over an area of 200 acres was granted to respondent No.5 which was initially valid up to 13.01.2011 but subsequently it was renewed for a further period of five years up to 12.01.2016 on the same terms and conditions as laid down in the Directorate General offer letter dated 13.10.2008.

2. Learned counsel for the petitioner further pointed out page 61 of the court's file which is a complaint submitted to the Director General, Mines & Minerals Department on 19.12.2018. He further argued that despite lodging this complaint no action has been taken so far on his complaint and ultimately he filed this petition for directions.

3. When we confronted to the learned counsel for the respondent No. 3 to 5 whether the last permission has been renewed by the Mining Department or not. He argued that application for renewal has already been filed and according to the Mining Rules, it is the responsibility of the competent authority to inform the applicant regarding fate of their application but application has not been decided so far and he further argued that during pendency of the application they are allowed to extract minerals in view of the earlier permission.

4. The Law Officer of the Sindh Mines & Mineral Department submits that the renewal application was filed

but that has already been rejected and the respondent No. 3 to 5 have already filed appeal to the Secretary who is appealing authority. Learned counsel for the respondent No. 3 to 5 earlier suppressed that the appeal is pending but now he submits that the appeal is pending before the Secretary and he further argued that till such time the appeal is decided they are allowed to extract limestone in view of the Law Department's opinion. Learned AAG does not subscribe the authenticity of any opinion of the Law Department and he further argued that the statutory provisions are there for filing appeal which will be decided in accordance with the relevant Laws and Rules and under legal opinion of Law Department no person has any right to extract the minerals despite rejecting his application or during pendency of the appeal.

5. As a result of above discussion, this petition is disposed of with the directions to the Secretary, Mines & Minerals Department to decide the pending appeal of the respondent No.5 within a period of one (01) month after providing ample opportunity of hearing to the respondent No.5. Till such time the respondent No.2 shall ensure that no minerals shall be extracted without valid permit and they shall also take all necessary actions in accordance with law against illegal extraction of minerals.

JUDGE

JUDGE