

GR 705 of 2022 (Rg. No. 72 of 2023)

Present : Sri C. Pramanik, J. M. 2nd Court, Bishnupur, (J.O. Code WB01207)

Order dated 04.11.2023

Today is fixed for appearance of SI Atanu Chakraborty of Kotulpur PS and submission of report.

Both petitioners namely Kalipada Dey and Bablu Singh have filed a petition praying for return of the seized sand.

Received the report of SI Atanu Chakraborty of Kotulpur PS wherein he raised objection to return the seized sand to the petitioners.

Ld. Advocate for the petitioners submits that petitioners are the Registered Owner of the said sand stock and they have already filed copy of Road challan regarding the Ownership of the said stock of sand.

On perusal of the record, it appears that in exercise of the power conferred upon the BL& LRO, Kotulpur, the concerned BL& LRO, Kotulpur has seized the sand approximately of 5000 CFT at mouza Madanmohanpur under JL No.26 on 02.08.2022 and kept in his custody. Subsequently on the same day on the basis of a complaint by concerned BL& LRO, the Kotulpur police authority has lodged a specific suo motu case against Kalipada Dey and Bablu Singh under 379/411 of IPC and under section 21 of Mines and Mineral Act being Kotulpur PS case 186 of 2022 dtd. 02.01.2022.

The said case has been ended in Charge Sheet against both the accused persons namely Kalipada Dey and Bablu Singh u/s 379/411 of IPC and under section 21 of Mines and Mineral Act.

Ld. ACJM, Bishnupur vide order dtd. 14.12.2022 has pleased to forward the case record before this court for final disposal.

Subsequently on the basis of petition filed by Kalipada Dey and Bablu Singh a report was called for, from the police authority whether they have any objection to return the seized sand.

In compliance of the order of this court SI Atanu Chakraborty of Kotulpur PS has sent three reports on 09.10.2023, 18.10.2023 and subsequently on 04.10.2023 ie today. The concerned Police Officer SI Atanu Chakraborty of Kotulpur PS is present before the court today and stated in his report written in back side of his written objection that only few challans total amounting to 550 CFT stands in the name of Kalipada Dey as purchaser and the same have been matched with the seized sand. But the total sand was seized is amounting to 5000 CFT. The concerned Police Officer stated that rest of the sand stock does not match with the challans. The rest of the challans do not stand in the name of petitioners herein as Registered Owners. Thus, the concerned Police Officer has raised strong objection in return of the said stock seized sand.

Ld. Advocate for the petitioners submits that sands are perishable good and it is required to be return to the petitioners.

Perused the petition, report of the Police Officer and materials on record.

Heard Ld. Advocate for the State as well as Ld. Advocate for the petitioners.

It appears from the record that the concerned BL&LRO on 02.08.2022 has seized the sand of 5000 CFT at mouza Madanmohanpur, at JL No. 26 and prepared seizure list. The Kotulpur Police authority has started a specific case against the petitioners of this case which has already been ended in CS u/s 379/411 of IPC and section 21 of Mines and Mineral Act against the two petitioners herein. The Police Officer in his report has raised strong objection in return of the said stock sand.

I have perused the copy of Road challans and on perusal of the same it appears that amongst the Road Challans only 6 Challans stand in the name of the petitioner Kalipada Dey and rest challans does not stands in the name of the petitioners herein although the petitioners claimed that they are Registered Owners. As most of the road challans filed by the petitioners does not stand in the name of the petitioners herein, prima facie ownership of the seized stock of

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sand has not been established even at this stage. Therefore, this court is not prima facie satisfied with the claimed ownership of the seized stock sand. As such I am not inclined to allow the petition at this stage.

Accordingly, petition filed by the petitioners for return of seized stock sand is hereby considered and rejected.

Todate (**06-03-2024**) for appearance and charge.

D & C by

Judicial Magistrate, 2nd Court,
Bishnupur.

Judicial Magistrate, 2nd Court,
Bishnupur.