



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.12358 of 2024

Basant Kumar Das

....

Petitioner

Mr. Niranjana Lenka, Advocate

-versus-

State of Odisha and others

Opp. Parties

Mr. P.K. Sahoo, ASC

W.P. (C) No.9263 of 2024

Jay Kishore Choubey

....

Petitioner

Mr. Niranjana Lenka, Advocate

-versus-

***Revenue Divisional
Commissioner (Central Zone),
Cuttack and others***

Opp. Parties

Mr. P.K. Sahoo, ASC

W.P. (C) No.9264 of 2024

Jay Kishore Choubey

....

Petitioner

Mr. Niranjana Lenka, Advocate

-versus-

***Revenue Divisional
Commissioner (Central Zone),
Cuttack and others***

Opp. Parties

Mr. P.K. Sahoo, ASC



CORAM:
JUSTICE MRUGANKA SEKHAR SAHOO

ORDER
22.01.2026
(Hybrid Mode)

W.P. (C) No.12358 of 2024, W.P. (C) No.9263 of 2024
& W.P. (C) No.9264 of 2024

Order No.

14.

1. The matter has been listed before this Bench specially assigned by Hon'ble the Chief Justice by order dated 20.01.2026 in the administrative side.

2. I.A. No.23119 of 2025 has been filed by the OP/State enclosing copy of the order dated 10.12.2025 passed by the Hon'ble Supreme Court in Miscellaneous Application No.18 of 2025 in W.P.(C) No.114 of 2014. The said Miscellaneous Application was filed, arising out of impugned final judgment and order dated 02.08.2017 in W.P.(C) No.114 of 2014: **Common Cause v. Union of India and others**. By the said order the Hon'ble Supreme Court had directed thus:

"1. We are informed that several writ petitions bearing W.P.(C) Nos.31548, 31551, 31554 of 2025 and W.P.(C) Nos.9264, 9263 and 12358 of 2024 are pending before the high Court, wherein orders passed in recovery proceedings have been challenged and stay obtained.

2. Since public revenue to a substantial extent is involved, we grant liberty to the State of Odisha to move an application before the Chief Justice of High Court of Odisha by 19th December, 2025, with a request to assign all such writ petitions to a dedicated Bench for final disposal by the end of March, 2026.

3. In the event, the Bench is disabled from deciding the writ petitions finally by 31st March, 2026, at least, the prayers made by the State of Odisha for



vacation/alteration/modification of such interim orders of stay may be considered and decided by the Bench.

4. We also observe that in such of the cases where either there is no stay granted by the High Court or any other appropriate Court, the State of Odisha shall proceed in accordance with law for recovery of the outstanding dues.

5. Further status report shall be filed on or before 02.04.2026.

6. Re-list the Miscellaneous Application and the connected matters in the second week of April, 2026.”

3. I.A. No.23119 of 2025 has been filed after the order passed by the Hon’ble Supreme Court. Similar I.As. have been filed in all the six writ applications listed today.

4. The W.P. (C) No.12358 of 2024 has been filed challenging the order dated 04.04.2024 passed by the opposite party no.2-Certificate Officer-cum-Collector, Mayurbhanj in Certificate Case No.07 of 2018 (05/2018) attaching the immovable properties of the petitioners and directing to take physical possession of the land of the petitioner and further directing to put the land in auction and to issue non-bailable warrant. It is stated in the writ applications that challenging the demand notice issued in the said certificate case the petitioner has filed Certificate Appeal No.08 of 2019 before the Revenue Divisional Commissioner (Central Zone), Cuttack. The said appeal is pending disposal.

5. It is submitted by the learned counsel, Mr. Lenka that in cases where he is appearing for the petitioners, i.e. W.P. (C) No. 12358 of 2024, W.P. (C) No.9263 of 2024 and W.P. (C) No.9264 of 2024, the appeals filed challenging the



action of the Collector before the appellate authority is pending adjudication. In view of the urgency that is coercive action faced by the petitioners, they have approached by filing writ petitions.

6. The learned counsel, Mr. Lenka referring to the averments made in the writ petition submits that one of the contentions raised in the writ petition is that prior to filing of the certificate case under the provisions of the Odisha Public Demand Recovery (OPDR) Act and further proceeding under the said Act, quantified demand giving details of calculation for arriving at the figure was not raised against the petitioner. To support his contention, learned counsel relies on the paragraphs 4 and 5 of the writ petition, which are reproduced herein:

“4. That, since the appellant was unable to look after the aforesaid mines, by document No.841 and 842 both dt.26.03.2007 the appellant executed an agreements in favour of M/s. Sidhartha Sponge and Power Pvt. Ltd. represented by its Director Sri Ananta Kumar Agarwal and M/s. Jay Jagannath Movers Pvt. Ltd. represented through its director Pratap Kumar Das respectively, with due notice to the competent authority. After execution of the said agreement the appellant stopped the mining operation.

5. That, as per the said mining agreement the appellant was paying all the mining dues including surface rent and all other ancillary rents to the competent authority from time to time for the period he operated the mines.”

7. It is submitted by the learned counsel, Mr. Lenka that there is no basis for arriving at the figure quantified for supporting the demand(s) made by the Mining Authority raised against the petitioners, allegedly towards mining



dues which have been sought to be enforced by resorting to the OPDR Act.

8. In response to the said submissions made at the Bar by the learned counsel, the learned Additional Standing Counsel for the State was asked to respond and show the method of calculation of demand raised by the Mining Authority towards the dues under the provision of statute (s) as applicable. He refers to Annexure-3 of the W.P. (C) No.12358 of 2024 i.e. a demand notice dated 05.09.2017 and he relies on the paragraph-6 of the said notice. Paragraph-6 is reproduced herein:

“6. Whereas considering the above excess production as production without lawful authority, you are liable to pay a sum of Rs.35,40,89,634/- (Rupees thirty five Crore Forty Lakhs Eighty nine Thousand Six hundred Thirty Four) only, being the price thereof towards compensation under section 21(5) of MMDR Act, 1957 for production without/in excess of the environmental clearance as rationalized the CEC, in pursuance to the judgment dt. 02.08.2017 of Hon’ble Supreme Court in the matter of WP(C) No.114/2014 Common Cause ‘vrs’ Union of India and others.

Now therefore you are hereby directed that you shall pay the compensation of Rs.35,40,89,634/- (Rupees thirty five Crore Forty Lakhs Eighty nine Thousand Six hundred Thirty Four) only, as detailed in annexure-1 on or before 31.12.2017 in pursuance to the Para 225 of the order dtd. 02.08.2017 of Hon’ble Supreme Court, following the mode of payment as detailed out under Annexure-II.

It is also made clear that the aforesaid demand is relatable to recovery of price of minerals produced without/beyond the EC alone under Section 21(5) of MMDR ACT, 1957 as adjudicated vide Para 156 of the judgment as referred above and does not include recoveries under section 21(5) of the said Act for violation of mining plan, consent



requirements under Air/Water Act and forest violation for which the demands, if any would be raised separately.”

9. In response to, it is submitted by the learned counsel for the petitioners that the demand has been repeatedly revised as would be evident from Annexure-4 notice dated 20.12.2017. None of the notices issued indicate the basis of arriving at the figure demanded. He further refers to the certificate issued by the Certificate Officer-cum-Collector and District Magistrate, Mayurbhanj dated 05.07.2018 to submit that the amount indicated by the Certificate Officer is also further different.

10. In response, the learned Additional Standing Counsel submits that the contentions raised by Mr. Lenka, learned counsel for the petitioners have been answered by the counter affidavit filed in W.P. (C) No.12358 of 2024 by the opposite party nos.2 and 4 through the Deputy Director Mines, Baripada. He relies on paragraphs 5 and 11 of the counter which are reproduced herein:

“5. That, in reply to the averments made in Paragraph-1 of the writ petition, it is humbly submitted that, pursuant to the orders dated 30.01.2018, wherein the Hon’ble Apex Court has directed the State Govt. to take coercive steps to recover the unpaid dues from the defaulting mining lease holders, the State Govt. vide office order No.1224/SM, Bhubaneswar, Dt.21.02.2018 has decided to simultaneously initiate process for institution of certificate cases under OPDR Act and for determination of leases of defaulting mining lease holders under MC Rules, 2016. Copy of office order No.1224/SM, Bhubaneswar, Dt. 21.02.2018 is annexed herewith as Annexure-A/2.

11. That, in reply to the averments made in Paragraph-13 of the writ petition, it is humbly



submitted that, the revised demand notice vide No.3520/Mines, Dt. 20.12.2017 was issued as per the letter dated 04.12.2017 of the Member Secretary, Central Empowered Committee regarding the modalities for revising the compensation demanded to various lessees under section 21(5) of MMDR Act, 1957 in pursuant to Hon'ble Supreme Court of India judgment dated 02.08.2017 passed in W.P.(C) No. 114/2014 (Common Cause-vrs-Union of India & Ors.). Further, the Director of Mines, Odisha vide letter No. 112/DM, Dt. 04.01.2018 has intimated that "The stacking of the undisposed stock should be completed on or before 28.02.2018 failing which the lessee will not be eligible for reduction of compensation amount and will be liable to pay compensation amount in full quantity of undisposed stock along with interest @ 14% from 31.12.2017. Copy of the letter No. 112/DM, Dt. 04.01.2018 is annexed herewith as Annexure-C/2.

11. The learned ASC submits that he has filed counter in response to the writ petitions W.P. (C) No.31548 of 2025, W.P. (C) No.31551 of 2025 and W.P. (C) No.31554 of 2025 and has also filed a petition for vacation of interim order of stay.

Mr. Lenka, learned counsel submits that he has received copy of the IA seeking vacation of stay/interim order and he shall file response thereto.

The learned Additional Standing Counsel seeks and has adjournment to respond to the contention of the learned counsel for the petitioner as noted above.

12. Regarding next date of hearing of the matter the learned ASC leaves it to the convenience of Court. The learned Senior Advocate, Mr. Palit and the learned counsel, Mr. Lenka submit the matters to be listed in the week



commencing 23.02.2026 to enable them to file replies to I.A. and rejoinder.

At this stage, the learned ASC submits that the matters may be listed in the week commencing 16.02.2026.

13. Accordingly, it is directed the matters shall be listed on 26.02.2026 marked at 2.00 PM.

14. The Registry shall list the matters indicating separate serial number for each of the case.

15. The interim order passed in all the matters shall continue till the next date.

16. Issue urgent certified copy as per rules.

The parties to act upon the copy of the order obtained from the official website of this Court.

(Mruganka Sekhar Sahoo)
Judge

Jyostna /Radha