

**(1995) 12 CAL CK 0033**

**Calcutta High Court**

**Case No:** C.R. No. 11027 (W) of 1987

Sk. Abu Salam Sarkar

APPELLANT

Vs

State of West Bengal and Others

<BR> Sk. Jia Alam Vs The State of  
West Bengal and Others

RESPONDENT

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**Date of Decision:** Dec. 6, 1995

**Citation:** 100 CWN 876

**Hon'ble Judges:** Nikhil Nath Bhattacharjee, J

**Bench:** Single Bench

**Advocate:** Asit Goswami and Suresh Chandra Manna, for the Appellant; Rina Basu, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

Nikhil Nath Bhattacharjee, J.

The subject matter of these writ applications is the quarry permit for extraction of sand from the river bed of Mundeswari under Mouza Kadir being plot no. 64, Police Station-Pursurah in the district of Hooghly. It is stated that plot No. 64 is a dry fellow land in the river bed of Mundeswari. The petitioner filed an application for permission to extract sand from the said land before the Additional District Magistrate, (Land Reforms), Hooghly, respondent No. 2 on 26th November, 1987, and as per prescribed Rules, the petitioner also deposited a sum of Rs. 50/- for quarry permit by challan in T.R. Form No. 7 in cash in the Reserve Bank of India at Calcutta. It is the petitioners case that there is no other applicant for extraction of sand from the said plot at the said site. No objection was also raised from any quarter whatsoever against the proposed extraction. On or about 30th November, 1987, the petitioner made a written demand for allowing the petitioner to extract and intimating that he has ready to pay advance royalty if needed but no reply having been received he filed this writ application praying for Issuance of a writ of Mandamus commanding the respondents authorities to allow the petitioner to go

on extracting sand from the said land without any hindrance in any way or manner. Interim order was also prayed for Further interim order as prayed for was realisation of royalty from the petitioner by the State respondents after by the competent authority concerned. Mr. Asit Goswami, learned Advocate appearing for the writ petitioner submitted at he outset that these writ application may be disposed of by directing the writ petitioners to submit on appropriate representation before the authority concerned who may directed to dispose of the same in accordance with law within a time frame.

2. Mrs. Rina Basak, learned Advocate for the State respondents on the otherhand raised vehement objection to the said proposal of the writ petitioner and drew my attention to the facts that whereas the affidavit appended to the writ application was sworn on 3rd November, 1987 the alleged application for quarry permission is dated 26th November, 1987, and the alleged prayer for permission to extract sand on the ground that the petitioners had already deposited Rs. 50/- is dated 30.11.1987, which means that the cause of action arose long after the writ application was filed and the averments in the application are patently false/and yet on the basis on this application and possibly on oral submission an interim order in each of these two writ application C.R. 11027(W)/87 and C.R. 11028(W) 1987 was obtained in terms of the prayer as made in the writ applications. In the application for vacating the interim order, the State respondents have stated categorically that fraud was practised upon the learned judge B.P. Banerjee, J. at the time when the writ application was moved and interim order was obtained inasmuch as the annexure could not see the light of the day when the interim order was obtained but on the basis of the said documents, the interim order was obtained. It is further stated that at least Rs. 6 lakhs upto January, 1993 is payable by the petitioner for (he traction he had already made by virtue of the interim order of this court which he obtained falsely by swearing false affidavit and in such circumstances adequate proceedings for drawing up criminal contempt may be initiated. In this connection, the learned Advocate for the State respondents has drawn my attention to paragraph 41 of a Supreme Court decision reported in AIR 1995 SC, P. 1795 (Dhananjay Sharma v. State of Haryana) wherein the observation of the Hon"ble Judges of the supreme Court runs as follows:-

Thus any conduct which has the tendency to interfere with the administration of justice or the due course of judicial proceedings amounts to the commission of criminal contempt. The swearing of false affidavits in judicial proceedings not only has the tendency of causing obstruction in the due course of judicial proceedings but has also the tendency to impede, obstruct and interfere with the administration of justice. The filing of false affidavits in judicial proceedings in any court of law exposes the intention of the concerned party in perverting the courses of justice. The due process of law cannot be permitted to be slighted nor the majesty of law by made a mockery by such acts or conduct on the part of the parties to the litigation or even while appearing as witnesses. Any one who makes an attempt to impede or

undermine or obstruct the free flow of the unsoiled stream of justice by resorting to the filing of false evidence commits criminal contempt of the court and renders himself liable to be dealt with in accordance with the Act. Filing of false statement on oath in courts aims at striking a blow at the Rule of Law and no court can ignore such conduct which has the tendency to shake public confidence in the judicial institutions because the very structure of an ordered life is put at stake. It would be a great public disaster if the fountain of justice is allowed to be poisoned by anyone resorting to filing of false affidavit or giving of false statements and fabricating false evidence in a court of law.

3. It is needless to point out that proceedings for contempt is required to be drawn up by the court whose order has been abused by practising fraud and in that view this court has nothing to do in the matter. The State respondents may if so advised move such an application before the appropriate court. So far as this court is concerned, it is palpable that the writ application has no legs to stand upon and must be summarily dismissed with costs. If for the sand ready extracted, royalty is due to the State Government, it is for the State respondents to take adequate action against" the persons responsible. Upon all consideration I discharge both the rules with costs which is assessed at 30 gms. in each case. AS interim order will stand vacated.