**Petition for a writ of mandamus In re Art. 226 of the Cosntitution of India**

In the High Court of Judicature at …………………

Name and Address :……………….. Petitioner

……………………………………..

*versus*

(1) State of …….. through Collector at……………

 Respondents

(2) Name and Address:………………………………

*In re Art. 226 of the Cosntitution of India and petition for a writ of mandamus*

The petitioner above named states as under :

1. That respondent No. 1 granted a lease of plot of land comprising of…….. acres bearing Survey No……. Hissa No……… to work a manganese mine. The lease as well as the Cadestral map showing the situation of the mine is Annexure I filed with the petition.

2. That the said lease commenced on …….. and …….. was for a period of…… years, with a further right of renewal for an equal period. Accordingly, the said lease is still to run till…….

3. That contiguous to the area which has been leased for the prupsoe of minign are situated two fields SurveyNos…….. Hissa Nos……..and comprising of about ……. acres. These fields were bring utilized by the petitioner for subsidiary purposes, namely, putting down and storing spoil from the mines. The mines have been worked for a long time with the result that these dumps, which cover about ..…… acres, are now of very sizeable dimensions.

4. That the permission to use these fields for subsidiary purposes of dumping the spoil was granted to the petitioner in…….., and the petitioner was asked to pay rent at the reate of……….. per acre to respondent No. 1 till the expiry of the lease. Thus the petitioner was entitled to entere upon the said two fields and to stack upon thme the ore extracted from the mines. The petitioner has also paid Rs………. as compensation to the surface owners thereof.

5. That without reference to the petitioner and without issuing any notice to him, the respondent No. 1 granted a prospecting licence to respondent No. 2 of an area inclusive of the said two fields in……… and subsequently an agreement to lease has also been entered into between the two respondents, though no lease has yet in fact been executed by respondent No. 1 in favour of respondent No. 2. with respect to an area inclusive of the said two fields.

6. That there arises a clash between the petitioner and respondent No. 2 because both of them wish to utilize the same area, respondent No. 2 alleging that the best are is to be found under the dumps of the petitioner.

7. That the working of the mine requires continuity and there can be no break in the working. Valuable dumps are lying belonging to the peititoner on the said two fields and further spoils are coming from the mines. Continuity of working therefore requires an expeditious and effective remedy to preserve such rights appertaining to the petitioner.

8. The petitioner is entitled in law not only to enter upon the said two fields but also to use it for the purpose of stacking minerals and deposit of refuse which is deemed to be a statutory working facility and is a part and parcel of the mining concession given to the petitioner.

9. That in virtue of the prospecting licence granted to the respondent No. 2 and the promised lease in its favour, the respondent No. 1 is responsible for creating a situation in which two conflcting parties are being given rights of entry. The petitioner having been granted the right to enter upon the said of entry. The petitioner having been granted the right to enter upon the said two fields, this right cannot but be regarded as a valuable right. It has a statutory foundation and the respondent No. 1 cannot create a right hostile to it without giving adequate notice to the petitioner and hearing him.

10. The petitioner cannot be deprived of his valuable rights by a contradictory lease given to another.

11. The petitioner is, therefore entitled to an appropriate writ to prohibit the entry of respondent No. 2 and to prevent respondent No. 1 from allowing respondent No. 2 to enter upon the said two fields Nos……. and …….. situate in village……, Tehsil…… District…………

12. It is accordingly prayed that a writ of *mandamus* be issued in this behalf with such other order or direction as the circumstances of the case may justify.

*N. B. -* An affidavit in support of the petition is filed herewith.

Dated ………………..

(Sd.)

Petitioner.

(Sd.)

Advocate, for the Petitioner.