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EMINENT DOMAIN - MISSISSIPPI

Mississippi Sand Solutions, LLC v. Otis

Supreme Court of Mississippi - December 17, 2020 - So.3d - 2020 WL 7417014

Sand mining company brought petition seeking to condemn private right-of-way across neighboring landowners' property.

After bench trial portion of proceeding, the Special Court of Eminent Domain granted directed verdict in favor of landowners. Mining company appealed.

The Supreme Court held that:

- Issue of whether mining company had access to its property was raised and ruled on in prior litigation between parties, and thus collateral estoppel doctrine barred relitigation of such issue, and
- Even if collateral estoppel bar did not apply, condemnation was not necessary for ingress and egress to mining company's property.

Issue of whether sand mining company had access to its property was raised and ruled on in prior declaratory judgment action by neighboring landowners, and thus collateral estoppel doctrine barred relitigation of such issue in mining company's action under private condemnation statute, seeking to condemn portion of landowners' property for access to mining company's property, where landowners argued in declaratory judgment action that there was no entitlement by mining company to an easement by necessity because alternative access was available, and trial court's order in declaratory judgment action specifically held that no easement by necessity was established because there were other ways to access mining company's property.

Finding that mining company had access to its property was essential to prior judgment entered in favor of neighboring landowners in their declaratory judgment action against mining company, asserting that mining company did not hold easement by necessity across landowners' property, supporting finding that collateral estoppel barred relitigation of issue of access to property in mining company's petition for condemnation of portion of landowners' property to provide access to mining company's property, where, in declaratory judgment action, landowners based their argument for lack of existence of easement solely on ground that mining company had alternative access to its property.

Condemnation of portion of neighboring landowners' property was not necessary for ingress and egress to mining company's property, defeating mining company's petition under private condemnation statute, where mining company principal testified that mining company had always been able to cross to its property and that landowners had never barred it or its employees from crossing to its property.