

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.9829/2014

ORISSA MINING CORPORATION LTD. &amp; ORS.

Appellant(s)

VERSUS

SATYASAI MINES AND MINERALS LTD. &amp; ANR.

Respondent(s)

WITH

C.A. No. 9830/2014 (XI-A)

C.A. No. 9677/2014 (XI-A)

(FOR EARLY HEARING APPLICATION ON IA 36391/2021)

Date : 14-12-2021 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE M.M. SUNDRESHFor Appellant(s) Mr. Raj Kumar Mehta, AOR  
Ms. Himanshi Andley, Adv.

For Respondent(s) Ms. Anindita Pujari, AOR

Mr. Nirnimesh Dube, AOR (not present)

UPON hearing the counsel the Court made the following  
O R D E RCivil Appeal No.9677/2014

On hearing learned counsel for parties it emerges from the counter affidavit filed by the respondent that the respondent-Company deposited a cost of material of 26,250 MT but the delivery order was issued only for 21,950 MT albeit the delay in deposit is stated to be the reason for the same as per the appellant(s). It is in view thereof that it has been urged that the total quantity paid for to be lifted was 93.42%.

We may have some reservation over the reasoning in the impugned order but the fact remains that if the respondent(s) has paid for 26,250 MT and has been permitted to lift only 21,950 MT then the differential in quantity of 4300 MT would have been paid for by the appellant(s) but ore not delivered.

In such an eventuality to further forfeit the earnest money deposit of Rs.35,47,500 is clearly unconscionable. Learned counsel for the appellant(s) seeks a day's accommodation to verify factual metrics of the aforesaid i.e. whether refund was made for the ore not lifted or not?

At the joint request of learned counsel for parties list for further proceedings in miscellaneous matters on Friday i.e. 17<sup>th</sup> December, 2021.

Civil Appeal No.9829/2014 & Civil Appeal No. 9830/2014

Learned counsel for respondents has not put in appearance. Learned counsel for the appellants plead that respondents have lifted 65% and 50% quantity respectively in the two matters which was paid for and there is no paid quantity which is not lifted as in the case of C.A. No.9677/2014.

Adverse orders are deferred in the interest of justice.

List as part-heard on 16<sup>th</sup> December, 2021.

(RASHMI DHYANI)  
COURT MASTER

(POONAM VAID)  
COURT MASTER