

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

Petition(s) for Special Leave to Appeal (Civil) No(s).9086-9088/2013
(From the judgement and order dated 07/01/2013 in WP No.1656/2010, APOT
No.412/2012, GA No.2316/2012 of The HIGH COURT OF CALCUTTA)

PRATHAM STEELS PRIVATE LTD AND ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment,
Permission to bring addl. facts and documents on record and directions and
prayer for interim relief)

Date: 29/04/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ANIL R. DAVE
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s) Mr. R.F.Nariman, Sr. Adv.
 Mr. Prateek Jalan, Adv.
 Mr. Siddharth Bhatnagar, Adv.
 Mr. Rajesh Gupta, Adv.
 Ms. Sonia Dube, Adv.
 Mr. S.Chakraborty, Adv. for
M/S. Legal Options.

For Respondent(s) Mr. S.P.Singh, Sr. Adv.
 Mr. Syed Tanweer Ahmad, Adv.
 Ms. Prachi Bajpai, Adv.
 Mr. Shreekant N. Terdal, Adv.

UPON hearing counsel the Court made the following

O R D E R

These petitions are directed against order dated 7.1.2013 of the Division Bench of the Calcutta High Court whereby the appeal filed by the petitioners against the order of the learned Single Judge and miscellaneous application filed by them were dismissed and the prayers made by them for issue of a direction to the respondents not to construct a new line at a distance of 5 meters from the lead line No.6 and to grant track certification of the common Engine Escape line were rejected.

Petitioner No.1 is engaged in the business of export of iron ore. In June, 2006, the competent authority of the Railways approved the proposal of the petitioners for construction of the private siding at Jaruli station.

In December, 2010, the petitioners filed Writ Petition NO.1656/2010 for restraining the respondents from laying new line and for issue of a mandamus for grant of track certification.

The respondents contested the writ petition by alleging that the new line being constructed by the Administration did not interfere with the lead line of the petitioners.

The learned Single Judge disposed of the writ petition by issuing the following directions:

"i) The petitioner-company will remove the articles, if any, lying on the site under reference within a week from date.

ii) The "principal Chief Engineer, South Eastern Railway is directed to review the decision of the respondent authority of constructing the

aforesaid new line by passing a reasoned order after conducting an inspection as also after giving opportunity of hearing to authorised representative of the petitioner No.1 and any other person as he deems fit and proper within a period of four weeks from date.

iii) For carrying on the business of loading and unloading, the respondent authority will indicate some area so that the 'petitioner may carry on its business of loading and unloading till decision is taken in terms of directions contained in clause (ii) hereinabove."

-3-

The petitioners did not feel satisfied and challenged the order of the learned Single Judge in GA No.2316/2012. The Division Bench of the High Court negated the petitioners' challenge to the order of the learned Single Judge and the decision taken by the Railway Administration to construct new line, by making the following observations:

"After hearing the learned counsel for the parties, we are of the considered opinion that no case of judicial interference in the matter has been made out. It is for the expert to take a decision from where the line has to be laid and also considering the public convenience. The appellants cannot claim unfettered right to load and unload from Line No.6 that is situate at the Railways' area and it is open to Railway authorities to construct a line at an appropriate place. We decline to interfere in the matter, more so, in view of the Report filed on 25-9-2012. However, if any aspect has remained untouched we give liberty to the appellants/petitioners to make representation by January 11, 2013 before the Chief Operational Manager, South Eastern Railway who shall be at liberty to hear them and the matter shall be decided by him on or before 16th of January 2013."

We have heard Shri R.F. Nariman, learned senior counsel for the petitioners and Shri S.P. Singh, learned senior counsel for the respondents and perused the record.

In our view, the reasons assigned by the Division Bench of the High Court for declining relief to the petitioners are legally correct and the impugned order does not call for interference under Article 136 of the Constitution.

-4-

The special leave petitions are accordingly dismissed. However, it is made clear that the petitioners shall be free to approach the Chief Operational Manager, South Eastern Railway and other authorities for redressal of their grievance, if any.

[SUMAN WADHWA]
A.R.-cum-P.S.

[PHOOLAN WATI ARORA]
COURT MASTER