

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.11147/2001  
(From the judgement and order dated 12/02/2001 in WP 268/96  
of The HIGH COURT OF BOMBAY AT PANAJI)

FERROMET CONCENTRATES

Petitioner (s)

VERSUS

STATE GOA & ORS.

Respondent (s)

(With prayer for interim relief)

( With Appln(s). for permission to place addl. documents on record )

( For Final Disposal )

Date : 11/01/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL  
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN  
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s) Mr. Anil B Divan, Sr. Adv.  
Mr. Dhruv Mehta, Ms. Shobha and Ms. Anu  
Mehta, Advs. for M/s K.L. Mehta & Co.,Adv.

For Respondent (s) Mr. T R Andhyarujina, Sr. Adv.  
Mr. S K Kulkarni, Mr. Mr.Khwairakpam Nobin  
Singh and Mr. M Gireesh Kumar, Advs.  
  
Ms. A Subhashini, Adv.  
  
Mr. D.S. Mahra,Adv. (NP)

UPON hearing counsel the Court made the following  
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Special leave granted.

The appeal is allowed and the case is remanded to  
the High Court, in terms of the signed order.

(D.P. WALIA)  
Court Master

(S.L. GOYAL)  
Court Master

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 188 OF 2002@@  
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[arising out of SLP(C) No.11147 of 2001]

Ferromet Concentrates ..Appellant(s)

vs.

State of Goa & Ors. ..Respondent(s)

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Special leave granted.

In the instant case, the appellant had filed a writ petition and during the pendency of the same it had applied for amendment which was allowed and thereafter the three main prayers in the writ petition were as follows :

"a) That this Hon'ble Court be pleased to direct the respondent to notify area in respect of Sukerkar's mine for regrant and to dispose the application of petitioner dated 9.8.1988 marked Exh. "A" which is still pending.

aa) The action of the State Government and Central Government in granting Prospecting Licence and Mining Lease vide orders dated 24.8.1992 and 6.8.1996 respectively be declared void and in any event quashed and set aside.

b) Restrain Respondent No. 1 & 2 from granting the Prospecting Licence or Mining Lease in respect of the said area to any other person until application of the petitioner Exh. "A" is disposed off."

The High Court by the impugned order came to the conclusion that the petition which was filed by the appellant ...2/-

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herein in 1996 was belated as it was filed seven years after the grant of the prospecting licence and five years after the grant of the lease to respondent No. 3. It appears that there is some mistake, inasmuch as the prospecting licence was granted in 1992 and the approval for the lease was granted in 1996. There is, in the decision of the High Court, no reference to any of these two dates. The High Court has proceeded on the assumption that the prospecting licence was granted in 1989 and further that the petition was related to the appellant's application of 9th August, 1988. The relief

with regard to the application of 9th August, 1988 was the first one which was prayed for in the amended writ petition, but the challenge to the prospecting licence and the mining lease granted to the respondent vide order dated 24th August, 1992 and 6th August, 1996 respectively has not been dealt with by the High Court.

We refrain from going into the merits of the case and we are of the opinion that the High Court ought not to have dismissed the writ petition solely on the ground of delay.

We, accordingly, set aside the decision of the High Court and remand the case to the High Court for a fresh decision making it very clear that it will be open to the respondents herein and to the appellant to raise all contentions which are available to them in accordance with law

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including the contention of respondent No. 3 that the writ petition is belated atleast in so far as the application of 9th August, 1988 is concerned. Liberty is granted to the parties to approach the High Court for an early hearing.

This appeal is allowed in the aforesaid terms.

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.....J.  
(B.N. KIRPAL)

.....J.  
(K.G. BALAKRISHNAN)

.....J.  
(ARIJIT PASAYAT)

New Delhi;  
January 11, 2002.