

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Special Leave Petition (Civil) No.10023 of 2011

UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

INDUST.CREDIT & INV.CORP.OF INDIA & ORS.

Respondent(s)

WITH

SLP(C) Nos. 32230-32233 of 2010

SLP(C) Nos. 20529-20532 of 2012

O R D E R

1. Delay condoned.
2. These Special Leave Petitions have been filed against the final judgment and order dated 01st February, 2010, passed by the Karnataka High Court in Original Side Appeal Nos. 32, 39, 40 and 34, all of 2009, whereby the order made by the learned Company Judge, which was the subject-matter of the appeals, was set aside.
3. Briefly stated the facts involved in these Special Leave Petitions relate to the order passed by the Board of Industrial and Financial Reconstruction (hereinafter referred to as "BIFR") on 12th June, 2000, recommending that the Bharat Gold Mines Ltd., which was operating the Kolar Gold Fields, be wound up. Consequent upon such direction, the matter was listed before the learned Company Judge in the Karnataka High Court.
4. Having regard to the various submissions made on behalf of the respective parties, including the submissions made on behalf of the workmen, the learned Company Judge was of the view that the Union of India should be permitted to hold a global tender for revival of the gold mines, in accordance with the Cabinet decision taken by the Central Government to revive the same. The Cabinet decision has been extracted in paragraph 6 of the impugned judgment of the Division Bench of the High Court and reads as follows:

"...6. Sri N.Devhadass, learned senior counsel submits that the decision of the Cabinet of the Central Government is found in the Annexure to the Memorandum of Appeal and at page 140 in the form of a communication dated 7/8th of August 2006 from Mr. Nawal Kishore, Director, Ministry of Mines, Government of India, bearing No.10(16)/2002-Met.II(G) addressed to the Managing Director, Bharat Gold Mines Limited, K.G.F. P.O. Oorgaum, Karnataka. The learned senior counsel has drawn our specific attention to the following part of the communication figuring at para 2(ii)(b) and reading as under:

"The Government has considered the proposal of the Forum and is of the view that the proposal of the

Employees Forum for the transfer of assets of BGML to the society/society's company can only be considered on the basis of the market value of such assets. An internal assessment of the value of such assets. An internal assessment of the value of assets has been made but the said valuation is only indicative in nature and does not bring out the market value. Therefore, the Government proposes to invite global bids for the assets of the company and make counter offer to the society/society's company which will either be the highest bid received or the value assessment made by the in-house committee (to be re-assessed again at the time of transfer), whichever is higher. The Forum will be asked to pay the amount so determined to the Government of India before the assets can be transferred to them. In return for the above mentioned purchase preference, the society/its company will firstly, undertake to pay to the employees, in addition to the sale value paid to the Government, the difference between the STBP and the VRS on 06.11.2001; and secondly, employ on priority the erstwhile employees of BGML."

5. At this juncture, it may be relevant to mention that a portion of the lands comprising the mines had been leased out by the Government to Bharat Gold Mines Limited, which in its turn sub-let a portion of the same to the Bharat Earth Movers Ltd. comprising about 1109 acres of the total area comprising the mines. The said sub-lease was made on 29th April, 2004 and is due to expire on 28th April, 2014.
6. It is in this background that BEML moved one of the appeals before the Division Bench for protection of its rights under its sub-lease.
7. The order of the Division Bench of the High Court, rejecting the appeals, has been challenged in these Special Leave Petitions.
8. During the hearing of these matters, submissions were made on behalf of the Union of India, as well as on behalf of the workmen represented by different associations and organisations and also on behalf of the BEML. While all the parties were agreeable to an order that a global tender should be conducted, BEML represented by Mr. Shekhar, learned senior advocate, also had no objection to the same being allowed, subject, however, to the Cabinet decision regarding the portion which had been sub-let to BEML being included in the tender documents.
9. Having regard to the above, we dispose of all these Special Leave Petitions, by setting aside the order of the Division Bench of the High Court impugned in the Special Leave Petitions and permit the Union of India to proceed with the global tender in accordance with the decision taken by the Cabinet, as extracted hereinabove and indicating the fact that a lease had been granted in favour of BGML, who had in turn sub-let a portion of the demised plot to BEML, which sub-lease is coming to an end on 28th April, 2014.
10. We make it clear that we have not gone into the merits of such questions in these matters and the Special Leave Petitions are disposed of, accordingly.
11. The challenge to the order on Review dated 16th December, 2010, is also allowed.

(ALTAMAS KABIR)

.....CJI.

.....J  
(M.Y. EQBAL)

.....J  
(VIKRAMAJIT SEN)

July 09, 2013.

ITEM NO.15  
[at 3.30 p.m.]

COURT NO.1

SECTION IVA

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(s).10023/2011

(From the judgement and order dated 01/02/2010 in OSA No.34/2009  
of The HIGH COURT OF KARNATAKA AT BANGALORE)

UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

INDUST.CREDIT & INV.CORP.OF INDIA & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP and office report )  
( for final disposal )

WITH

SLP(C) NO. 32230-32233 of 2010

(With appln.(s) for directions and with prayer for interim relief and  
office report)

( for final disposal )

SLP(C) NO. 20529-20532 of 2012

(With appln.(s) for c/delay in filing SLP and office report)

( for final disposal )

Date: 09/07/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE M.Y. EQBAL  
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

Attorney General for India

For Petitioner(s) Mr. Mohan Jain, ASG.  
in SLP 10023/11 Mr. J.S. Attri, Sr. Adv.  
& for Rr in Mr. Deepak Jain, Adv.  
SLP 20529-32/12: Mr. D.K. Thakur, Adv.  
Ms. Sunita Sharma, Adv.  
Ms. Priyanka Bharihoke, Adv.  
Mr. D.S. Mahra, AOR

Mr. Jaideep Gupta, Sr. Adv.  
Ms. Meenakshi Arora, AOR  
SLP 32230-33/10 Ms. Evneel Uppal, Adv.

Mr. L.Nageshwar Rao, Sr. Adv.  
Mr. Dayan Krishnan, Adv.  
SLP 20529-20532/12 Mr. Gautam Narayan, AOR  
Mr. Musashir Mushtaq, Adv.

For Respondent(s)

Mr. L.Nageshwar Rao, Sr. Adv.  
Mr. Dayan Krishnan, Adv.  
SLP 10023/11 Mr. Gautam Narayan, AOR  
SLP 32230-33/10 Mr. Mubashir Mushtaq, Adv.

SLP 32230-33/10 Ms. Meenakshi Arora, AOR

Mr. Ram Lal Roy, Adv.  
Mr. R.N. Keshwani, AOR

SLP 10023/11 Mr. D.Ram Krishna Reddy, Adv.  
Mrs.D. Bharathi Reddy, AOR

Mr. A. Raghunath, AOR

R4 IN SLP 1002/11: Dr. Sushil Balwada, AOR

Ms. Shilpa Singh, AOR

SLP 20529-20532/12 Mr. Mishra Saurabh, AOR

R2 In SLP 20529-32 Mr. S.N. Bhat, AOR  
of 2012

UPON hearing counsel the Court made the following  
O R D E R

Delay condoned.

The Special Leave Petitions are disposed of in terms of the  
signed order.

|(Sheetal Dhingra)  
|AR-cum-PS

|(Juginder Kaur)  
|Assistant Registrar

[Signed order is placed on the file]