

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) Nos.7366-7367/2010

(From the judgement and order dated 26/02/2010 in WP No.25910/2009 and WP No.26083/2009 of The HIGH COURT OF A.P. AT HYDERABAD)

GOVT.OF A.P.& ORS.

Petitioner(s)

VERSUS

M/S OBULAPURAM MINIG.CO.P.LTD.& ORS. ETC.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned judgment, directions, impleadment and office report)

With Writ Petition (C) No.562 of 2009

(With appln(s) for clarification of Court's Order dated 06/05/2011, permission to file additional documents, exemption from filing O.T., impleadment, directions, vacating stay, intervention, interim directions, permission to file affidavit and modification)

Date: 13/04/2012 These Matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MR. JUSTICE SWATANTER KUMAR

Mr. Shyam Divan,Sr.Adv. (A.C.)
Mr. A.D.N. Rao,Adv.(A.C.)
Mr. Siddharth Chaudhary,Adv.(A.C.)

For Petitioner(s)
In SLP 7366-67/2010:

Mr. T.V. Ratnam,Adv.

In WP 562/2009:

Mr. Prashant Bhushan,Adv.
Mr. Pranav Sachdeva,Adv.

Mr. S. Ganesh,Sr.Adv.
Mr. Syed Naqvi,Adv.
Ms. Namrata K. Sharma,Adv.
Mr. P.P. Kanwar,Adv.
Mr. Kunal Verma,Adv.

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For Respondent(s) Mr. Mukul Rohtagi,Sr.Adv.
Mr. Sridhar Potaraju,Adv.
Mr. Gaichjangrou Gongmei,Adv.
Ms. D. Siri Rao,Adv.

For MoEF: Mr. Gourab Banerjee,ASG.
Mr. Harris Beeran,Adv.
Mr. Nishanth Patil,Adv.
Mr. B.K. Prasad,Adv.

Mr. H.P. Raval,ASG.
Ms. Asha G. Nair,Adv.
Mr. D.S. Mahra,Adv.

Mr. G. Umapathy,Adv.
Mr. Rakesh K. Sharma,Adv.

Mr. K.K. Venugopal,Sr.Adv.

Mr. P.V. Dinesh, Adv.
Mr. Siddhartha, Adv.

For Karnataka:

Mr. Raju Ramachandran, Sr. Adv.
Mr. R.G. Kolle, Adv.
Ms. Vishruti Vijay, Adv.
Ms. Anitha Shenoy, Adv.

Mr. G.N. Reddy, Adv.

Mr. P.P. Malhotra, ASG.
Mr. Ashok Bhan, Adv.
Mr. Gaurav Sharma, Adv.
Ms. Sukhbeer Kaur Bajwa, Adv.
Mr. S.N. Terdal, Adv.

Mr. Satya Siddiqui, Adv.
Mr. S.K. Mishra, Adv.
Mr. B.K. Prasad, Adv.

Mr. C.A. Sundaram, Sr. Adv.
Mr. C.S. Vaidyanathan, Sr. Adv.
Mr. Gopal Jain, Adv.
Mr. Rajat Jariwal, Adv.
for M/s. Khaitan & Co., Adv.

For FIMI:

Mr. T.R. Andhyarujina, Sr. Adv.
Ms. Kiran Suri, Adv.
Mr. Sunil Dogra, Adv.
Mr. S.J. Amith, Adv.

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Mr. F.S. Nariman, Sr. Adv.
Mr. Sunil Dogra, Adv.
for M/s. Lawyers Knit and Co., Adv.

Ms. Aparna Bhat, Adv.

Mr. B.S. Iyengar, Adv.
Mr. Prashant Kumar, Adv.
for M/s. AP & J Chambers, Adv.

Mr. C.S. Vaidyanathan, Sr. Adv.
Mr. Sanjay R. Hegde, Adv.
Mr. B.M. Rajesh, Adv.
Mr. S. Nithin, Adv.
Mr. Tenzin Tsering, Adv.
Mr. Anil Kumar Mishra-I, Adv.

Mr. D.L.N. Rao, Sr. Adv.
Mr. S.K. Kulkarni, Adv.
Mr. M. Gireesh Kumar, Adv.
Mr. Ankur S. Kulkarni, Adv.

In I.A. 59:

Mr. D.L.N. Rao, Sr. Adv.
Mr. Mukul Rohatgi, Sr. Adv.
Mr. S.K. Kulkarni, Adv.
Mr. M. Gireesh Kumar, Adv.
Mr. Ankur S. Kulkarni, Adv.

Mr. Mohan Parasaran, ASG.
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For NMDC Ltd.:

Mr. Arvind Datar, Sr. Adv. (N/P)
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Mr. D. Julius Riamei, Adv.
Mr. Anand Sukumar, Adv.
Mr. Bhupesh Kumar Pathak, Adv.
Ms. Meera Mathur, Adv.

Mr. R.S. Suri, Sr. Adv.
Mr. N.L. Ganapathi, Adv.
Ms. Pallavi Tayal, Adv.
Mr. Zaki Ahmed Khan, Adv.

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Mr. Shekhar G. Devasa, Adv.
Mr. Aljo Joseph, Adv.
Mr. Rohit Pandey, Adv.
Mr. D.K. Garg, Adv.

Mr. Sashi Karan Shetty, Adv.
Dr. Sushil Balwada, Adv.

For Mysore Minerals
Ltd.

Mr. Balaji Srinivasan, Adv.
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Mr. K. Vijay Kumar, Adv.

Mr. Ranvir Singh, Adv.
Mr. P. Ramesh Kumar, Adv.

Mr. K.K. Venugopal, Sr. Adv.
Ms. Kiran Suri, Adv.
Mr. K.N. Phanindra, Adv.
Mr. S.J. Amith, Adv.
Mr. Rohit Bhat, Adv.

M/s. Suresh A. Shroff & Co., Advs.

Mr. G.V.R. Choudary, Adv.
Mr. K. Shivraj Choudhuri, Adv.
Mr. A. Chandra Sekhar, Adv.

Mr. Varun Kumar Chopra, Adv.

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Naveen R. Nath, Adv.
Ms. Lalit Mohini Bhat, Adv.
Ms. Amrita Sharma, Adv.
Mr. Darpan K.M., Adv.

Mr. Vijendra Kumar, Adv.
Mr. Shaikh Chand Saheb, Adv.
Mr. Rajesh Mahale, Adv.

For DMC.:

Mr. Pallav Shisodia, Sr. Adv.
Mr. Bhargava V. Desai, Adv.
Mr. Avijit Bhushan, Adv.

Mr. Altaf Ahmed, Sr. Adv.
Mr. Navkesh Batra, Adv.
Mr. Sandeep Narain, Adv.
for M/s. Narain & Co., Advs.

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Mr. Snehasish Mukherjee, Adv.

Mr. K. Dhiraj Kumar, Adv.
Ms. K. Radha, Adv.
Mr. K. Subba Rao, Adv.
Mr. A.P. Mayee, Adv.

Mr. Kuriakose Varghese, Adv.
Mr. Neeraj Shekhar, Adv.

Mr. Vikas Singh, Sr. Adv.
Mr. Vikas Mehta, Adv.
Mr. R. Ravishankar, Adv.
Mr. Uday Joshi, Adv.

Dr. Adish C. Agrawala, Sr. Adv.
Mr. Ashwani K. Dubey, Adv.
Mr. Abhinav Singh, Adv.

Mr. T.V. Ratnam, Adv.
Mr. Munawwar Naseem, Adv.

Mr. Gaurav Goel, Adv.
Ms. Neeha Nagpal, Adv.
Mr. Rishi Agrawala, Adv.
Mr. E.C. Agrawala, Adv.

Mr. Shailesh Madiyal, Adv.

M/s. Parekh & Co., Advs.

UPON hearing counsel the Court made the following

O R D E R

Having considered the Recommendations contained in the Report of Central Empowered Committee dated 13th March, 2012, we accept the said Recommendations, which are quoted hereinbelow:

"(A) the findings of the Joint Team and as modified after careful examination by the CEC may be accepted and directed to be followed by the concerned authorities and the respective leases, notwithstanding anything to the contrary. The boundaries of the mining leases should accordingly be fixed on the ground;

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(B) a ceiling of 25 Million Metric Tonnes (MMT) for total production of iron ore from all the mining leases in District Bellary may be prescribed. A ceiling of 5 MMT for production of iron ore from all the mining leases in Districts Chitradurga and Tumkur together may be prescribed;

(C) the proposed "guidelines for the preparation of the R&R Plans" may be approved by this Hon'ble Court and the prescriptions/provisions of the R&R Plans, prepared as per these guidelines, may be directed to be followed by the respective lessees and the concerned authorities;

(D) the iron ore which becomes available should be used for meeting the iron ore requirement of the steel plants and associated industries located in Karnataka and also of those plants located in the adjoining States which have been using the iron ore from the mining leases located in these Districts. Exports, outside the country, should be permissible only in respect of the material

which the steel plants and associated industries are not willing to purchase on or above the average price realized by the Monitoring Committee for the corresponding grades of fines/lumps during the sale of about 25 MMT of the existing stock of iron ore. Similarly, the iron ore produced by the beneficiation plants after processing should also not be permitted to be exported outside the country;

- (E) the sale of the iron ore should continue to be through e-auction and the same should be conducted by the Monitoring Committee constituted by this Hon'ble Court. However, the quantity to be put up for e-auction, its grade, lot size, its base/floor price and the period of delivery will be decided/provided by the respective lease holders. The Monitoring Committee may permit the lease holders to put up for e-auction the quantities of the iron ore planned to be produced in subsequent months. The system of sale through the Monitoring Committee may be reviewed after say two year;

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- (F) 90% of the sale price (excluding the royalty and the applicable taxes) received during the e-auction may be paid by the buyer directly to the respective lease holders and the balance 10% may be deposited with the Monitoring Committee alongwith the royalty, FDT and other applicable taxes/charges;
- (G) the responsibility of the Monitoring Committee will be (a) to monitor the implementation of the various provisions/prescriptions of the R&R Plans, (b) to ensure strict compliance of the conditions on which the environment clearance, the approval under the Forest (Conservation) Act, 1980 and the other statutory approvals/clearances have been accorded, (c) to ensure that the mining is undertaken as per the approved Mining Plan, (d) to ensure that the ceiling on annual production fixed for the lease does not exceed, (e) to ensure that the safety zone is maintained around the lease area and in respect of the clusters of mining leases around the outer boundary of such cluster of mining leases and (f) to ensure compliance of the other applicable condition/provisions. Any lease found to be operating in violation of the stipulated conditions/provisions should be liable for closure and/or termination of the lease;
- (H) the present Members of the Monitoring Committee should continue for a period of next two years; and
- (I) in the larger public interest the mining operations in the two leases of M/s NMDC may be permitted to be continued. However, it will be liable to deposit penalty/compensation as payable for the mining

leases falling in "Category-B".

The implementation of Reclamation and Rehabilitation Plans for all three categories shall start immediately. It is made clear that preparation, implementation and monitoring of Reclamation and Rehabilitation Plan will be under the supervision of Central Empowered Committee.

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Central Empowered Committee shall inform this Court, next week, whether the suggestions with regard to stockyard and preparatory work for Category 'A' can be started.

[T.I. Rajput]
A.R.-cum-P.S.

[Madhu Saxena]
Assistant Registrar