

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).25148/2010

(From the judgement and order dated 03/08/2010 in WA No. 1266/2010 of The HIGH COURT OF KERALA AT ERNAKULAM)

M/S GOYAL MG GASES P.LTD.& ANR

Petitioner(s)

VERSUS

M/S KERALA MINERALS & METALS LTD.& ANR

Respondent(s)

(With prayer for interim relief and office report)

Date: 17/12/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For Petitioner(s)

Mr. Sreejesh, Adv.

Ms. V.S. Lakshmi, Adv.

Mr. A. Venayagam Balan, Adv.

For Respondent(s)

Mr. E.M.S. Anam, Adv.

Mr. Anil Kumar Sangal, Adv.

Mr. Siddharth Sangal, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard Learned counsel for the parties.

The petitioners entered into a contract with respondent No. 1 for setting up an oxygen plant for respondent No. 1. Respondent No. 1 terminated the contract and invited fresh tenders for awarding the contract for setting up an oxygen plant to another party. In the meanwhile, the dispute arising out of the termination of contract went before the Arbitrator. The petitioners, however, filed Writ Petition (C) NO. 6055 of 2007 before the High Court and the learned Single Judge of the the High Court by order dated 17th June, 2010, directed that the arbitration proceedings may be concluded soon and further directed that the proceedings pursuant to the notice inviting tenders shall not be finalised until the arbitration proceedings are concluded.

Aggrieved, respondent No. 1 filed writ appeal before the Division Bench of the High Court and by the impugned order dated 13th August, 2010, the Division Bench of the High Court vacated the order of the learned Single Judge and also observed that the right of the petitioners to file a petition under Section 9 of the Arbitration and Conciliation Act before a Civil Court may be retained but the petitioners will not interfere with the right of the respondent No. 1 to set up a new plant. Aggrieved, the petitioners have filed the Special Leave Petition.

We are told by learned counsel for respondent No. 1 that the proposal to set up an oxygen plant for which tenders were invited has been dropped by respondent No. 1. Considering the aforesaid development, the grievance of the petitioners that they should have been allowed to assail the tender for setting

up the new plant no longer survives.

The Special Leave Petition is dismissed as having rendered infructuous. The arbitration proceedings, however, may continue and its hearing be expedited and disposed of as early as possible.

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| [KALYANI GUPTA]
| COURT MASTER

| | [SHARDA KAPOOR]
| | COURT MASTER

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