

ITEM NO.301

COURT NO.3

SECTION PIL-W

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

4 sets

I.A. NOS. 247, 33459, 33454, 90519, 90523, 112363,
112359, 112373 AND 112371

IN

WRIT PETITION CIVIL NO(S). 562/2009

SAMAJ PARIVARTANA SAMUDAYA & ORS.

PETITIONER(S)

VERSUS

STATE OF KARNATAKA . & ORS.

RESPONDENT(S)

WITH

I.A. NOS.118910 AND 124719 OF 2017 IN WP (C) NO.562 OF 2009

Date : 07-12-2017 These applications were called on/mentioned
for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE
HON'BLE MR. JUSTICE NAVIN SINHA

Amicus Curiae

Mr. Shyam Divan, Sr. Advocate (A.C.)

Mr. A.D.N Rao, Advocate (A.C.),

Mr. Siddhartha Chowdhury, Adv (A.C.)

For Parties

Mr. Prashant Bhushan, Adv.

Mr. Govind Jee, Adv.

State of
Karnataka

Mr. Raju Ramachandran, Sr. Adv.

Ms. Anitha Shenoy, AOR

Ms. Srishti Agnihotri, Adv.

Mr. Ishwar Mohanty, Adv.

Ms. Hamsini Shankar, Adv.



of Mines

Ms. Pinky Anand, ASG

Mr. Sarad Kumar Singhania, Adv.

CBI

Mr. R. Balasubramanian, Adv.
Ms. Asha G. Nair, Adv.
Mr. G.S. Makker, AOR

Ms. Pinky anand, ASG
Ms. Saudamini Sharma, Adv.
Mr. Raj Bahadur Yadav, AOR

Mr. Maninder Singh, ASG
Mr. P.K. Dey, Adv.
Mr. R. Balasubramanian, Adv.
Mr. Rajiv Nanda, Adv.
Mr. M.K. Maroria, AOR

Mr. Maninder Singh, ASG
Mr. Nalin Kohli, Adv.
Mr. R. Balasubramanian, Adv.
Ms. Vimla Sinha, Adv.
Ms. Anil Katiyar, AOR

MEL

Mr. Krishnan Venugopal, Sr. Adv.
Mr. Aditya Narayan, Adv.
Mr. Rohit Sharma, Adv.
Ms. Akshata Benegal, adv.
Mr. Mohit Kr. Aneja, adv.
Mr. Anshul Chowdhary, Adv.
Mr. Kumar Dushyant Singh, Adv.

FIMI

Mr. C.A. Sundaram, Sr. Adv.
Mr. Aditya Naryan, Adv.
Mr. Rohit Sharma, Adv.
Ms. Akshata Benegal, adv.
Mr. Mohit Kr. Aneja, adv.
Mr. Anshul Chowdhary, Adv.
Mr. Kumar Dushyant Singh, Adv.

IA 33459, 33454

Ms. Indu Malhotra, Sr. Adv.
Mr. Vikas Mehta, AOR
Ms. Amrita Sanghi, Adv.
Mr. Tanvir Nayar, Adv.
Ms. Anushree Menon, Adv.
Mr. Jai Wadhwa, Adv.

Mr. Chander Uday Singh, Sr. Adv.
Mr. Rajat Jariwal, Adv.
Mr. Aakash Bajaj, Adv.
Mr. Sanjeev K. Kapoor, Adv.
For M/s. Khaitan & Co., AOR

124719, 118910 Ms. Kiran Suri, Sr. Adv.
 Mr. Ankur S. Kulkarni, Adv.
 Ms. Shweta S. Parihar, Adv.
 For M/s. Lex Regis Law Offices, AOR

Uttarakhand State Mr. Dinesh Kumar Garg, AOR
 Ms. Rachna Gandhi, Adv.

West Bengal State Mr. Kunal Chatterji, Adv.
 Mr. Chanchal K. Ganguli, AOR

Mr. Jai Wadhwa, Adv.
 Mr. Kashyap Kr. Dwivedi, Adv.
 Dr. Sushil Balwada, AOR.

NMDC Mr. Kailash Pandey, Adv.
 Mr. Ranjeet Singh, Adv.
 Mr. Gaichang Pou Gangmei, AOR

M/s. Sandur Manganese & Iron Ores Ltd. Mr. Sunil Dogra, Adv.
 Mr. Vivek Vishnoi, Adv.
 Mr. Abhishek Sharma, AOR

Rajasthan State Mr. S.S. Shamsbery, AAG
 Mr. Amit Sharma, adv.
 Mr. Ankit Raj, Adv.
 Ms. Indira Bhakar, Adv.
 Ms. Ruchi Kohli, AOR

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

I.A. NOS.112359, 112363, 112373 AND 112371 OF 2017 IN
WP (C) NO.562/2009

List the applications on 23rd January, 2018 by
 which time report of the Central Empowered Committee
 (CEC) shall be filed.

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I.A. NOS.118910/2017 and 124719/2017 IN WP (C)
NO.562/2009

Upon being mentioned, the applications are taken on record.

List the applications on 23rd January, 2018.

I.A. NOS.90519/2017 AND 90523/2017 IN WP (C)
NO.562/2009

List the applications on 23rd January, 2018.

I.A. NO.33459/2017 AND I.A. NO.33454/2017 IN I.A.
NO.33459/2017 IN WP (C) NO.562/2009

The prayer of the applicant - M/s Rai Bahadur Seth Shreeram Narasingdas Pvt. Ltd. in I.A. No.33459 in Writ Petition (Civil) No.562 of 2009 is for permission to carry out mining activities in an area of 5.04 hectare of land which has been included in the leased area of the applicant as well as the co-lessee M/s Mysore Minerals Limited (for short "M/s MML").

We have considered the report dated 1st December, 2017 filed by the CEC in this regard which seems to suggest that as the boundaries of the various leases have been finally settled by this Court by the directions contained in paragraph 47 of the judgment of

this Court dated 18th April, 2013 in Samaj Parivartana Samudaya and others Vs. State of Karnataka and ors.¹ the issue may not be reopened. However, so far as mining in the common area is concerned what the CEC has suggested is that the lessee which had obtained the licence/lease first should be allowed to carry out the mining activity in the aforesaid 5.04 Hectare.

Shri Shyam Divan, learned Amicus Curiae has expressed reservations with regard to the said suggestion offered by the CEC inasmuch as the problem which has erupted in the present case between two lease-holders could arise in cases of other leases in which case there will be a virtual re-drawing, though indirectly, of the leased boundaries which have attained finality in terms of the directions of this Court dated 18th April, 2013. Shri Divan, therefore, has suggested that this area be declared as 'no mining area' and until the leased boundaries are redrawn after expiry of the current leases the position should remain as such.

Having considered the matter we are of the view that the suggestion offered by the learned Amicus Curiae should be accepted which we accordingly do. The

leasehold boundaries have attained finality and considering that the problem that has confronted the Court in the present case may arise in cases of other leases also we are of the view that so far as the present proceedings are concerned the common area of 5.04 Hectare should be declared as a 'no-mining area' where no party will carry any mining activity till the boundaries of the leases in question are redrawn upon expiry of the period of the current leases. We order accordingly.

With the aforesaid directions, I.A Nos.33459 and 33454 are disposed of.

I.A. NO.247

Pursuant to the order of this Court dated 13th September, 2017, the CEC has filed its report dated 25th October, 2017. We have perused the same.

For clarity, we may extract paragraphs 4 and 5 of the said order dated 13th November, 2017 which are in the following terms.

"4. Having now considered the matter, we are of the view that what has been stated by Shri Jiwrajka in paragraph 24 of the note submitted to the Court is a suggestion that the Court would like to act upon. The said suggestion is to the effect that as nine mines mentioned in paragraph 24 produces about 80% of the iron-ore in the Districts of Bellary and Chitradurga, the primary concentration of the

Court to control pollution and ensure a safe environment should be, in the first instance, in respect of the aforesaid nine mines. The names of leases and the other particulars as set out in the note of Shri Jiwrajka is extracted below:-

S.No.	Name of the Lease	District	MPAP
1	NMDC Ltd.(ML No.1111)	Bellary	6.00 MMT
2	NMDC Ltd.(ML No.2396)	Bellary	6.00 MMT
3	MML (ML No.2605)	Bellary	1.06 MMT
4	MML (ML No.2629)	Bellary	3.00 MMT
5	Sesa Goa (ML No.2677)	Chitradurga	2.29 MMT
6	MSPL (ML No.2416)	Bellary	1.80 MMT
7	SMIORE (ML No.2580)	Bellary	1.60 MMT
8	B.Kumar Gowda (ML No.2516)	Bellary	1.26 MMT
9	VESCO (ML No.2296)	Bellary	1.10
	Total		24.11 MMT (79%)

5. Out of the aforesaid nine mines two mines of NMDC can be left out of consideration for the present as there is a conveyor belt system already operating therein. Insofar as MSPL (ML No.2416) is concerned, there is a special suggestion of Shri Jiwrajka keeping in mind that the aforesaid lease is expiring in 2022 which is to the effect that the costs should be borne proportionately. In the remaining six mines/leases conveyor belt system should be set up by the lessees themselves. Insofar as railway sidings is concerned, it has been stated by Shri Jiwrajka that railway sidings would be required only in three of the leases, namely, MML(ML No.2605), B.Kumar Gowda (ML No.2156) and VESCO (ML No.2296). Insofar as

railway sub-lines are concerned, it is the suggestion of Shri Jiwarajka that only two sub-lines i.e. between Lakshmipur Cross and Dharmapura (about 4-5 km in length) & between Sandur existing line and Susheel Nagar (about 11 km in length) will be required."

The report of the CEC indicates that insofar as the following leases are concerned the lessees are agreeable to construct a conveyor belt system at their own costs.

S.No.	Name of the Lease	District
1.	MML (ML No.2605)	Bellary
2.	MML (ML No.2629)	Bellary
3.	Sesa Goa (ML No.2677)	Chitradurga
4.	SMIORE (ML No.2580)	Bellary
5.	B.Kumar Gowda (ML No.2516)	Bellary
6.	VESCO (ML No.2296)	Bellary

Suggestions with regard to the railway sidings and railway sub-lines have also been made in the report of the CEC dated 25th October, 2017. Having considered the same and without going into the details of the said report we convey our approval and would now require M/s Karnataka Mining Environment Restoration Corporation ("KMERC" for short) to submit to the Court a detailed project report as well as details of the budgetary and

financial requirements in respect of the aforesaid work of railway sidings and railway sublines as indicated in the report of the CEC dated 25th October, 2017. To enable the work to commence we direct that a sum of Rs.10 crore (Rupees ten crore) be released in favour of M/s KMERC by the Monitoring Committee forthwith.

We have also taken note of the case of the lease-holder MSPL (ML No.2416), Bellary as mentioned in the said report. As the lessee has limited time to operate its current lease it has expressed its disinclination to undertake any construction of the conveyor belt system at its own cost. Consequently, modified suggestions have been made with regard to the location of the railway sidings.

The CEC in its report has left the matter for determination by the Court and for appropriate directions. Before any directions in this regard are issued by the Court we would like to hear the views of M/s MSPL as such directions may have the effect of imposing some liability and duties on the lessee i.e. M/s MSPL.

Office, therefore, is directed to issue notice to M/s MSPL on the aforesaid limited point.

Insofar as the two leases of M/s NMDC Ltd. (ML No.1111 and ML No.2396), Bellary are concerned, suggestions offered will be considered at the appropriate time i.e. after the alignments are finalized by the lessees/KMERC.

Insofar as the lessees enumerated in Serial Nos. 1 to 6, mentioned above, are concerned, they would be required to approach the State Government by filing an appropriate application for Right of Way (RoW)/Forest Clearance (FC) approvals. This will be done within a period of one month from today whereafter the appropriate Authority in the State Government/Central Government will finalize the matter as expeditiously as possible and, in any case, within two months from the date of receipt of the application by treating the same to be a part of the Mining Relating Infrastructure Development. Thereafter the lessees will be required to complete the construction of the conveyor belt system within a period of 18 (eighteen) months after acquiring Right of Way (RoW) and/or grant of Forest Clearance (FC) approval, as may be.

Federation of Indian Minerals Industries, Southern Region [FIMI (South)] has also filed a

response to the report of the CEC stating that the funds available with the Special Purpose Vehicle (SPV)/Monitoring Committee as on date is more than adequate to take care of all phases of implementation of the CEPMIZ Scheme that are required to be undertaken in terms of the order of this Court. Consequently, it has been submitted that the contributions made by the lease-holders to the SPV towards the implementation of the CEPMIZ Scheme be discontinued.

This aspect of the matter will be considered on the next date fixed after the CEC files its response to the above. Shri Divan, learned Amicus Curiae is requested to assist the Court on this issue on the next date fixed.

List all the applications on 23rd January, 2018. We request the Hon'ble the Chief Justice of India to make this Bench available for the whole day on 23rd January, 2018.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

BRANCH OFFICER

