

ITEM NO.1 Court 5 (Video Conferencing)

SECTION XII-A

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 (C) No(s).6760/2021

(Arising out of impugned final judgment and order dated 20-04-2021 in WP No.7903/2021 passed by the High Court Of Andhra Pradesh At Amravati)

M/S EMBASSY PROPERTY DEVELOPMENTS PVT. LTD. & ANR. Petitioner(s)

VERSUS

DIRECTOR OF MINES AND GEOLOGY & ORS. Respondent(s)
 (IA-119468/21 IN SC-6760/21, IA-119469/21 IN SC-6789/21 AND IA-119462/21 IN D.NO. 11522/21, IA No. 119468/2021 - APPLICATION FOR VACATION OF INTERIM ORDER)

WITH

SLP(C) No. 6789/2021 (XII-A)
 (FOR APPLICATION FOR VACATION OF INTERIM ORDER ON IA 119469/2021)

Diary No(s). 11522/2021 (XII-A)
 (FOR APPLICATION FOR VACATION OF INTERIM ORDER ON IA 119462/2021)

Date : 18-02-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
 HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s) Mr. Gaurav Sharma, AOR
 Mr. Prateek Bhatia, Adv.
 Ms. Adishree Dutta, Adv.
 Mr. Siddharth Bhatnagar, Sr. Adv
 Mr. Dhawal Mohan, AOR
 Ms. Pracheta kar, Adv
 Mr. Aditya Sidhra, Adv
 Mr. Nadeem Afroz, Adv.

Mr. Jayant Mohan, AOR

For Respondent(s) Mr. Ranjit Kumar, Sr.Adv.
 Mr. Mahfooz Ahsan Nazki, AOR
 Mr. Polanki Gowtham, Adv.
 Mr. Shaik Mohamad Haneef, Adv.
 Mr. T.Vijaya Bhaskar Reddy, Adv.
 Mr. K.V.Girish Chowdary, Adv.
 Ms. Rajeswari Mukherjee, Adv.

Mr. Siddhartha Dave, Sr. Adv
Mr. Goli Rama Krishna, Adv
Mr. Anand Dilip Landge, AOR
Ms. Saumya Gupta, Adv.

Mr. Jayant Bhushan, Sr. Adv.
Mr. Tushar Bhushan, Adv.
Ms. Bhabna Das, AOR
Mr. Sai Kaushal, Adv.

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

This Special Leave Petition is filed against the judgment dated 20.04.2021 passed by the Andhra Pradesh High Court in writ petition No.7903 of 2021.

M/s Tiffins Barytes Asbestors & Paints Pvt. Limited - respondent No.4 herein is the Corporate Debtor in an application filed under Section 7 and 8 of IBC 2016 before the National Company Law Tribunal, Chennai. A Resolution Professional was appointed by the NCLT and a Committee of Creditors was constituted by the Resolution Professional. The fourth respondent was a lease holder of Barytes mines at Kadappa, Andhra Pradesh.

On 13.03.2018, a Memorandum was issued by respondent No.1 to the Asst. Director of Mines & Geology ("ADM&G") directing issuance of necessary permits for transportation of the stock of Barytes available at the site. The Deputy Director of Mines & Geology, Kadapa ("DDM&G") and ADM&G were informed about the initiation of CIRP against Respondent No.4. On 23.03.2018, the Joint Director, Mines and Geology ("JDM&G") directed ADM&G not

to issue the permit in relation to transportation of Barytes by accepting the request made by the Resolution Professional.

An application was filed before NCLT, Chennai for protection to be given to the surveyors who were appointed to conduct survey of the mines which was allowed and CISF protection was granted by the NCLT Chennai on 10th of October, 2018. A report was submitted by the surveyors M/s SGS India Private Limited ('SGS') in which the details were given regarding the available mineral at the site. As permission was not granted to the Resolution Professional to transport the mineral, an application was filed by him before the NCLT, Chennai seeking permission for transportation of the mineral. In the meanwhile, the Resolution Professional received notices by which a demand of Rs.57,93,910/- was made by the government towards arrears of lease rent and advance dead rent.

On 12.06.2019, the Resolution Plan submitted by M/s Embassy Property Developments Private Limited, the petitioner in SLP(C)No.6760/2021 was approved by the NCLT. We are informed that the said order is subject matter of challenge in the NCLAT.

On 29.06.2019, the 1st respondent informed the lessee to submit applications for renewal of lease. As no application was made for renewal, show cause notices were issued on 08.06.2020 and 12.06.2020 directing the lessee

to state as to why the applications for renewal of lease should not be rejected on account of certain defaults that were made by the 4th respondent. The show cause notices were served on the Resolution Professional who submitted his explanation in detail.

On 23.07.2020, the renewal applications were rejected. Challenging the order of rejection of the renewal application, the Resolution applicant, i.e. M/s Embassy Property Developments Private Limited filed a writ petition in the High Court of Andhra Pradesh. By the impugned order dated 20.04.2021, the High Court directed the writ petitioner to file a revision before the Government. The concern voiced by the petitioner was that an opportunity of hearing might not be given. After recording the submission made by the advocate for the Government, the High Court was of the opinion that the petitioner should be given an opportunity of hearing by the Revisional Authority. The request made by the writ petitioner for an order of status quo during the pendency of the revision was rejected by the High Court. Liberty was granted to the writ petitioner to approach the revisional authority and seek such relief which would be considered in accordance with law. Aggrieved by the judgment of the High Court in so far as status quo was not granted after directing the petitioner to file a revision, this Special Leave Petition has been filed.

Notice was issued on 28.05.2021 and status quo

as on that date was directed to be maintained. We do not intend to deal with the submissions made by the parties in view of the order that is proposed.

The petitioner is permitted to file a revision within a period of one week. In case, such a revision is filed within a period of one week from today, the revisional authority is directed to dispose of the revision within a period of four weeks thereafter. Status quo, as directed by this Court on 28.05.2021 shall continue till the disposal of the revision.

With the above observations, this Special Leave Petition and pending application(s), if any, shall stand disposed of.

The parties are directed not to seek adjournments before the revisional authority.

(B.Parvathi)
Court Master

(Anand Prakash)
Court Master