

ITEM NO.1

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**  
**RECORD OF PROCEEDINGS**

I.A. NOS. 247, 269, 90519, 90523, 112363, 112359, 112373,  
 118910, 124719, 134809, 132513, 141339, 11281, 35652

IN

WRIT PETITION(CIVIL) NO(S). 562/2009

SAMAJ PARIVARTANA SAMUDAYA &amp; ORS.

PETITIONER(S)

VERSUS

STATE OF KARNATAKA . &amp; ORS.

RESPONDENT(S)

(I.A. NOS. 247, 269, 90519, 90523, 112363, 112359, 112373,  
 118910, 124719, 134809, 132513, 141339, 11281, 35652 I.E.  
 (APPLICATIONS FOR DIRECTIONS,) THE FOLLOWING ADVOCATES NAME MAY BE  
 SHOWN AGAINST THE SAID I.A.S MR. SHYAM DIVAN, SR. ADV (A.C.), MR.  
 A.D.N. RAO, ADV (A.C.), MR. SIDDHARTH CHOWDHARY, ADV (A.C.), MR.  
 PRASHANT BHUSHAN, ADV, MS. ANITHA SHENOY, ADV, MR. O.P. BHADANI,  
 ADV, MR. KUMAR DUSHYANT SINGH, ADV, M/S LEX REGIS LAW OFFICES, MR.  
 YASHRAJ SINGH DEORA AND MR. GAICHANGPOU GANGMEI, MR. BALAJI  
 SRINIVASAN MR. ABHISHEK SHARMA)

Date : 21-03-2018 This petition was called on for hearing today.

CORAM :

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

For parties:

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

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Mr. Siddharth Chowdhary, Adv. (A.C.),

Mr. Prashant Bhushan, Adv.

Mr. Govind Jee, Adv.

Mr. T. Sudhakar, Adv.

Ms. Aparna Bhat, AOR

State of Karnataka Mr. Raju Ramchandran, Sr. Adv.  
 Ms. Anitha Shenoy, AOR  
 Ms. Srishti Agnihotri, Adv.  
 Mr. Ishwar Mohanty, Adv.  
 Ms. Remya Raj, Adv.  
 Mr. O.P. Bhadani, Adv.

MEL Mr. Krishnan Venugopal, Sr. Adv.  
 IA 247, 90519, 90523, Mr. Aditya Naryan, Adv.  
 112363, 112359, Mr. Rohit Sharma, Adv.  
 112373 Mr. Mohit Kr. Aneja, Adv.  
 Mr. Anshul Chowdhary, Adv.  
 Mr. Kumar Dushyant Singh, Adv.

FIMI(South) Mr. P. Chidambaram, Sr. Adv.  
 Mr. Krishnan Venugopal, Sr. Adv.  
 Mr. Aditya Naryan, Adv.  
 Mr. Rohit Sharma, Adv.  
 Mr. Anshul Chowdhary, Adv.  
 Mr. Mohit Kr. Aneja, Adv.  
 Mr. Kumar Dushyant Singh, Adv.

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

IA 132513, 141339 Mr. S. Ganesh, Sr. Adv.  
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 Ms. Sanjana Saddy, Adv.  
 Mr. Aakash Bajaj, Adv.  
 Mr. Rajat Jariwal, Adv.  
 Mr. Sanjeev K. Kapoor, Adv.  
 For M/S Khaitan And Co., AOR  
 Mr. Prakash Kumar Singh, AOR  
 Mr. P. S. Sudheer, AOR

Mr. K.N. Phanindra, Adv.  
Mr. Ninad Laud, Adv.  
Mr. Jayant Mohan, AOR.  
Mr. Anjuman Tripathy, Adv.  
Mr. Ivo D'costa, Adv.  
Mr. Aditya Swain, Adv.

Mr. Vikas Mehta, AOR

Ms. Uttara Babbar, AOR

Mr. Sandiv Kalia, Adv.  
Mr. Abhishek Aanand Rai, Adv.  
Dr. Sushil Balwada, AOR

Mr. Sridhar Potaraju, AOR

Mr. Snehasish Mukherjee, AOR

Mr. Shailesh Madiyal, AOR

Mr. Senthil Jagadeesan, AOR

Mr. Samir Ali Khan, AOR

Ms. Ranjeeta Rohatgi, AOR

Mr. Rakesh K. Sharma, AOR

Mr. Rajesh Mahale, AOR

Mr. Rajeev Maheshwaranand Roy, AOR

Mr. Prashant Kumar, AOR

Mr. P. V. Dinesh, AOR

Mr. Neeraj Shekhar, AOR

Mr. Naveen R. Nath, AOR

Mr. Munawwar Naseem, AOR

Mr. Mukesh Kumar Maroria, AOR

Mr. Merusagar Samantaray, AOR

Ms. Manjula Gupta, AOR

Mr. Kunal Verma, AOR

for M/s Karanjawala & Co., AOR

Mr. G. N. Reddy, AOR

St. of Uttarakhand Mr. Dinesh Kumar Garg, AOR

Mr. Chandra Prakash, AOR

State of W.B. Mr. Kunal Chatterji, Adv.  
Mr. Chanchal Kumar Ganguli, AOR

Mr. Bhargava V. Desai, AOR

MML Ms. Vaishnavi Subrahmanyam, Adv.  
Mr. Balaji Srinivasan, AOR

Mr. Arvind Kumar Sharma, AOR

Mr. Ankur S. Kulkarni, AOR

Ms. Anjani Aiyagari,

Ms. Aniruddha P. Mayee, AOR

Mr. Anil Kumar Mishra-I, AOR

Mr. Akhil Anand, AOR

Mr. Adarsh Upadhyay, AOR

M/s Sandur M&IOL Mr. Sunil Dogra, Adv.  
Mr. Vivek Vishnoi, Adv.  
Mr. Abhishek Sharma, AOR...

IA 35652/18 Mr. Sunil Gupta, Sr. Adv.  
Mr. Sunil Dogra, Adv.  
Mr. Vivek Vishnoi, Adv.  
Mr. Abhishek Sharma, AOR

Ms. A. Sumathi, AOR

**IA 247**  
**MSPL**  
 Mr. Krishnan Venugopal, Sr. Adv.  
 Mr. Uday Tiwary, Adv.  
 Mr. A. Raghunath, AOR  
  
 Ms. Vaijayanthi Girish, AOR  
  
 Ms. Sudha Gupta, AOR  
  
 for M/s Parekh & Co., AOR  
  
 Ms. Kirti Renu Mishra, AOR  
  
 for M/s Ap & J Chambers, AOR

**Deptt. Of Steel**  
 Mr. Maninder Singh, ASG  
 Mr. R. Balasubramaniam, Adv.  
 Mr. N.K. Karhail, Adv.  
 Mr. P.K. Mullick, Adv.  
 Mr. Raj Bahadur, Adv.

**IA 269**  
**NMDC**  
 Mr. Aman Lekhi, ASG  
 Mr. K. Raghavacharyulu, Adv.  
 Mr. Kailash Pandey, Adv.  
 Mr. Ranjeet Singh, Adv.  
 Mr. Gaichngpou Gangmei, AOR

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 Mr. Amit Sharma, Adv.  
 Mr. Sandeep Singh, Adv.  
 Mr. Ankit Raj, Adv.  
 Ms. Indira Bhakar, Adv.  
 Ms. Ruchi Kohli, Adv.

**UOI**  
 Mr. Maninder Singh, ASG  
 Mr. Sarad Kumar Singhanian, Adv.  
 Mr. R. Balasubramaniam, Adv.  
 Mrs. Asha G. Nair, Adv.  
 Mr. G.S. Makker, AOR  
 Mr. A.K. Sharma, Adv.

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

CBDT

Mr. Maninder Singh, ASG  
Ms. Vimla Sinha, Adv.  
Mr. Balendu Shekhar, Adv.  
Ms. Anil Katiyar, AOR

Mr. Mallikarjun S. Mylar, Adv.  
Ms. S. Usha Reddy, AOR

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

I.A. NO.247 OF 2015 IN WP(C) NO.562 OF 2009  
[APPLICATION FOR CLARIFICATION/DIRECTIONS ON BEHALF OF  
FEDERATION OF INDIAN MINERAL INDUSTRIES, SOUTHERN  
REGION ("FIMI SOUTH")]

I.A. No.247 of 2015 has been filed, *inter alia*,  
seeking following reliefs:

"a. Direct/clarify that iron ore lessees in the State of Karnataka will not be required to contribute ten percent of the sale proceeds, ex mines, to the SPV established pursuant to orders of this Hon'ble Court, from the date on which the said lessees become liable to make payment, under Section 9B of the Act, to the DMF;"

We have considered the report of the Central Empowered Committee ("CEC" for short) dated 25<sup>th</sup> October, 2017 filed in this regard; affidavit dated 29<sup>th</sup> November, 2017 filed on behalf of the Federation of Indian Mineral Industries, Southern Region (FIMI South); and the report of the CEC dated 19<sup>th</sup> March, 2018 (i.e. Report No.13 of 2018).

While FIMI (South) is seeking discontinuation of its obligation to pay ten percent (10%) by way of contribution to the Special Purpose Vehicle ("SPV") in the light of the total accumulation that has accrued as on date, the CEC in its Report (No.13 of 2018) dated 19<sup>th</sup> March, 2018 has urged that the contribution towards the SPV should continue, broadly, for the reason that the Comprehensive Environment Plan for the Mining Impact Zone ("CEPMIZ") is still a vision document and the exact quantum of funds required for its implementation is not clear. That apart, the CEC in its report (No.13 of 2018) has stated that the ambit of the CEPMIZ, in the interest of social justice, may expand and, therefore, it would not be prudent at this stage to discontinue the contributions made by the lessees. The CEC has also stated that the CEPMIZ Scheme is envisaged for execution over a period of ten (10) years and various relevant factors including cost-escalation have still to be worked out. Accordingly, it is suggested by the CEC in its aforesaid report (No.13 of 2018) dated 19<sup>th</sup> March, 2018 that the Special Purpose Vehicle i.e. M/s Karnataka Mining Environment Restoration Corporation ("M/s KMERC") be directed to

submit a project Report before this Court indicating very broadly the different facets of the CEPMIZ Scheme; work to be undertaken and the cost which can be reasonably expected to be incurred. It is only thereafter that the prayers made in I.A. No.247 ought to be considered.

We have considered the matter and we are of the view that the present is not a stage where the contribution(s) made by the lessees to the SPV ought to be discontinued even temporarily. Instead, it will be more appropriate to accept the suggestion made by the CEC and require M/s KMERC to prepare and submit within six months

(a) a revised comprehensive all inclusive proposal on socio-economic development and eco restoration incorporating suggestions on missing items made by FIMI Southern Region and the Monitoring Committee;

(b) proposals relating to road infrastructure needed to support mining activities and socio-economic development of the region with short term and long term targets; and

(c) to institute a detailed study relating to the railway backbone required to support the mining



activities as suggested by the RITES for connecting all mineral bearing regions of the three districts and submit the findings in 6 months along with the detailed financial implications;

and the total financial out-lay that would be necessary to be incurred if the aforesaid proposals/projects are to be implemented over a period of time including the cost escalation that may be involved. Once the aforesaid report is available, orders as may be appropriate will be passed on the prayers made in I.A. No.247 of 2015.

We make it clear that the Court would expect M/s KMERC to submit its report within the time frame fixed and not to approach the Court for any extension of time.

We are informed that FIMI is the member of M/s KMERC. FIMI (South), the applicant, which is a limb of FIMI and has specifically approached this Court with the prayers made may also be associated in the deliberations of M/s KMERC pursuant to the present order.

List I.A.No.247 on 10<sup>th</sup> October, 2018 at 2.00 p.m.

I.A. NO.247 OF 2015 IN WP(C) NO.562/2009

Re:- Reply on behalf of M/s MSPL Limited pursuant to the Order dated 7.12.2017 passed by this Court

The issue arising will be considered after receipt of the Feasibility Report by M/s Rail India Technical and Economic Survey ("M/s RITES") which as per the Status Report filed on behalf of the State of Karnataka dated 20<sup>th</sup> March, 2018 will be submitted on 30<sup>th</sup> April, 2018 so far as the Railway Siding at Dhanapur is concerned.

I.A. NO.269 OF 2017 IN W.P.(C) NO.562 OF 2009 [FOR DIRECTIONS] FILED ON BEHALF OF NMDC LTD

CEC to respond to the prayers made in I.A. No.269 of 2017 within four weeks from today.

List the application on 25<sup>th</sup> April, 2018 at 2.00 p.m.

The applicant is permitted to bring on record the prayer(s) made in I.A. No.190 in Writ Petition (Civil) No.562 of 2009 which was the subject matter of the order of this Court dated 6<sup>th</sup> January, 2014.

I.A. NOS.90519/2017 (FOR DIRECTIONS) AND I.A. NO.90523/2017 (FOR PERMISSION TO FILE APPLICATION FOR DIRECTIONS) FILED ON BEHALF OF MINERAL ENTERPRISES LIMITED ("MEL")

The applicant - M/s Mineral Enterprises Limited ("MEL") was granted lease in the year 1990 which expired in the year 2012. The same was renewed on 5<sup>th</sup> December, 2016.

Against the total quantity of 0.38 MMT per year as per the approved R & R Plan, for the months of December, 2016 and January, February and March, 2017 the applicant was allowed to mine a total of 0.095 MMT. Aggrieved, the present applications have been filed seeking permission to carry forward the balance quantity of 0.285 MMT available in 2016-2017 to the subsequent year i.e. 2017-2018.

It appears that as per the R & R Plan the applicant - MEL was allowed to mine a total of 0.57 MMT for the year 2017-2018.

We have considered the prayers made in I.A. No.90519 of 2017; the report of the CEC and have heard the learned counsel for the applicant - MEL. Permitting the applicant - MEL to carry forward the

balance quantity of 0.285 MMT to the subsequent year would result in excess mining involving a total volume of 0.855 MMT which would be beyond 0.57 MMT as per the approved R & R Plan.

The prayers made in I.A. No.90519 of 2017 are, therefore, refused.

The applications are disposed of accordingly.

I.A. NOS.112363/2017 (FOR DIRECTIONS) AND 112359 (FOR PERMISSION TO FILE APPLICATION FOR DIRECTIONS) FILED ON BEHALF OF MINERAL ENTERPRISES LIMITED ("MEL")

Learned counsel for the applicant - MEL is granted four weeks' time to file reply/response to the reports of the CEC dated 16<sup>th</sup> January, 2018 and 22<sup>nd</sup> January, 2018.

List the application on 25<sup>th</sup> April, 2018 at 2.00 p.m.

I.A. NO.112373 (FOR DIRECTIONS) FILED ON BEHALF OF MINERAL ENTERPRISES LIMITED ("MEL")

On 23<sup>rd</sup> January, 2018, this Court had passed the following order:

"Permission to file I.A. No.112373 for directions is granted.

The prayer made in I.A. No.112373 for directions is to the following effect:

"(a) Direct the Monitoring Committee to put up the residual sub-grade mineral/ore of ML No.2346, amounting to approximately

3,00,000, for e-auction;"

Having heard the learned counsel for the applicant and Shri Shyam Divan, learned Amicus Curiae, at this stage, we direct the Monitoring Committee to put up the residual sub-grade mineral/ore of ML No.2346 for e-auction. However, we make it clear that the present order will not entitle the applicant (MEL) to receive the proceeds of the said sale which will be adjudicated separately along with I.A. No.112363/2017 in W.P.(C) No.562/2009."

Shri Krishnan Venugopal, learned Senior Counsel for the applicant - MEL submits that there are some differences between the lessee and the Monitoring Committee with regard to the price and lot-size.

The said issues may be raised by the lessee before the Monitoring Committee for necessary remedial action as may be considered appropriate.

I.A. NO.118910 OF 2017 (FOR DIRECTIONS) AND I.A. NO.124719/2017 (FOR PERMISSION TO FILE APPLICATION FOR DIRECTIONS) FILED ON BEHALF OF T. NARAYANA REDDY (DEAD) THROUGH LR

From the report of the CEC (i.e. Report No.11 of 2018) dated 12<sup>th</sup> March, 2018 it appears that in another parallel proceedings pending before another Bench i.e. Special Leave Petition (Civil) No.7366-7367 of 2010 the Court has called for a report of the Surveyor General of India. The said authority would be submitting the same after completion of the meetings with the Chief

Secretary of the two States i.e. States of Andhra Pradesh and Karnataka which are scheduled to be held on 26<sup>th</sup> - 27<sup>th</sup> March, 2018.

Once the said report of the Surveyor General of India is brought on record in the said Special Leave Petition (Civil) No.7366-7367 of 2010, the same will be laid before this Court in the present I.A. by the learned counsel for the applicant, whereafter, further orders will follow.

I.A. NOS. 132513 (FOR DIRECTIONS) AND 134809 (FOR PERMISSION TO FILE APPLICATION FOR DIRECTIONS) FILED ON BEHALF OF B. RUDRA GOWDA

Tag with I.A. No.247 of 2015 in Writ Petition (Civil) No. 562 of 2009.

I.A. NO.141339/2017 (FOR DIRECTIONS FILED ON BEHALF OF B. RUDRA GOWDA)

This application has been filed, inter alia, seeking the following reliefs:

(a) Recognize and accept the change in the total extent of the Applicant's mining lease area from 134 acres to 197.20 acres for all purposes relating to the operation of the Applicant's mine;

(b) Direct that the applicant and respondent be permitted to implement the Rehabilitation and Reclamation Plan and the quantity of production as approved in Rehabilitation and Reclamation Plan in respect of the entire area of 197.20 Acres of its lease bearing ML No.2516 and be entitled to consequential benefits."

The boundaries and area of the lease as on the basis of the joint survey and the date of the final judgment/order of this Court dated 18<sup>th</sup> April, 2013 passed in Writ Petition (Civil) No.562 of 2009 and other connected cases is final and cannot be altered. Any area in dispute which may have been resolved subsequently will be treated as a "no-mining zone". This has already been ordered by this Court in the order dated 7<sup>th</sup> December, 2017 passed in I.A. No.33459/2017 and I.A. No.33454 of 2017 in I.A. No.33459 of 2017 in W.P. (C) No.562 of 2009.

The prayers made in I.A. No.141339 of 2017 are, therefore, refused. The report of the CEC in this regard is not accepted.

I.A. NO.35652 OF 2018 IN W.P.(C) NO.562 OF 2009 [FOR DIRECTIONS] FILED BY THE SANDUR MANGANESE & IRON ORES LIMITED

The issue raised in this I.A., namely, whether the contribution of 10% of its sale proceeds towards the SPV should be declared as "business expenditure" in terms of Section 37 of the Income Tax Act, 1961 may be agitated before the appropriate forum.

I.A. No.35652 of 2018 is accordingly closed in terms of the above observation.

**I.A. NO.11281 OF 2018 IN W.P.(C) NO.562 OF 2009 [FOR DIRECTIONS] FILED BY M/S MYSURU MINERALS LIMITED (M/S MML)**

**Issue notice.**

**CEC to file its reply/response within four weeks from today.**

**List all the cases on 25<sup>th</sup> April, 2018 at 2.00 p.m.**

**[VINOD LAKHINA]  
AR - cum - PS**

**[ASHA SONI]  
BRANCH OFFICER**