

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).21211/2012

(From the judgement and order dated 25/05/2012 in DBCWP  
No.6591/2011 of The HIGH COURT OF RAJASTHAN AT JODHPUR)

BIRLA CORPN.LTD.

Petitioner(s)

VERSUS

BHANWAR SINGH & ORS.

Respondent(s)

(With appln(s) for directions, permission to file synopsis and list of  
dates and with prayer for interim relief and office report)

WITH

SLP(C) NO. 22377 of 2012

(With appln(s) for directions and with prayer for interim relief  
and office report)

SLP(C) NO. 23551 of 2012

(With prayer for interim relief and office report)

SLP(C) NO. 25186 of 2012

(With prayer for interim relief and office report)

SLP(C) NO. 26197 of 2012

((With appln(s) for directions and with prayer for interim relief  
and office report)

SLP(C) NO. 29698 of 2012

(With office report)

Date: 23/09/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s)

Mr. Pravin H. Parekh, Sr. Adv.

Mr. E.R. Kumar, Adv.

Mr. Vishal Prasad, Adv.

Mr. Galav Sharma, Adv.

Mr. Kshatrshal Raj, Adv. for

M/S. Parekh & Co.

SLP 23551, 25186 Mr. V. Shekhar, Sr. Adv.

Mr. Praveen Kumar, Adv.

Ms. Sunaina Kumar, Adv.

SLP 26197

Dr. Manish Singhvi, Addl. Adv. Gen.

Mr. Amit Lubhaya, Adv.

Mr. Irshad Ahmad ,Adv.

SLP 22377

Mr. J.M. Sharma, Sr. Adv.

Mr. Abhishek, Adv.

Mr. Ambar Qamaruddin, Adv.

SLP 29698

Mr. Giriraj Subramaniam, Adv.

Ms. Liz Mathew, Adv.

For Respondent(s)                Ms. Aishwarya Bhati, Adv.  
   Mr. Amit Verma, Adv.  
   Mr. Pawan Kr. Saini, Adv.  
   Mrs. Sanjoli Mittal, Adv.  
   Mr. Rashid, Adv.

   Mr. K.B. Rohtagi ,Adv.  
   Mr. Mahesh Kasana, Adv.  
   Ms. Aparna Rohtagi Jain, Adv.

   Dr. Manish Singhvi, Addl. Adv. Gen.  
   Mr. Amit Lubhaya, Adv.  
   Mr. Irshad Ahmad ,Adv

   Mr. Annam D.N. Rao ,Adv  
   Ms. Mansha Monga, Adv.  
   Ms. Neelam Jain, Adv.  
   Mr Sudipto, Adv.

   Ms. Liz Mathew, Adv.

   Mr. Pravin H. Parekh, Sr. Adv.  
   Mr. E.R. Kumar, Adv.  
   Mr. Vishal Prasad, Adv.  
   Mr. Galav Sharma, Adv.  
   Mr. Kshatrshal Raj, Adv. for  
   M/S. Parekh & Co.

   Ms. Pragati Neekhara, Adv.

   Mr. Sarad Kumar Singhania, Adv.

UPON hearing counsel the Court made the following

O R D E R

The CSIR-Central Building Research Institute, Roorkee (CBRI) in its report submitted in the month of May, 2013, inter alia, observed as follows:

"The Expert Committee feels that a few weeks are too short a period to arrive at a conclusion as far as the response of the cracks observed in the Fort structures are concerned. It is recommended that the issue of resuming of mining operations using HEMM may be taken up independently. However, long term study of response of the cracks to the full scale mining operations may be taken up separately in a delinked manner, in close association with the major stakeholders like Birla Corporation and ASI.

CSIR-CBRI will be happy to undertake such study in greater national interest, if given the responsibility."

2. Mr. Harish N. Salve, learned senior counsel for the petitioner in S.L.P. (C) No. 21211 of 2012 has given his suggestions in writing. Inter alia, he has suggested that it is necessary to commission a study by the CBRI into the following issues:

(a) Whether blasting including the cumulative effect of blasting beyond a specified distance has any impact whatsoever upon the structure of the fort?

(b) What appeared to be, in their expert opinion, the

causes that have led to cracks and other damage caused to the fort, other than ageing simplicitor?

(c) Whether the uncontrolled access to tourists has any adverse impact upon the structure and if so, any suggested steps to regulate this activity.

(d) Whether the activities within the colony situated in the fort itself as well as the flow of traffic including heavy traffic in the vicinity of the fort have any adverse consequences upon the structural integrity of the fort, and if so, the suggested measures to deal with this problem.

3. Mr. Harish N. Salve also suggested that CBRI may be requested to generally recommend what steps in their opinion should be taken to restore the structural integrity to repair the cracks and generally ensure that no damage in future is caused to the structural integrity.

4. Ms. Aishwarya Bhati, learned counsel for the respondent Nos. 1 to 6 in S.L.P. (C) No. 21211 of 2012 has also given some suggestions in her letter dated 10.9.2013 to M/s. Parekh & Co. - advocate(s) for the petitioner. She submits that now since comprehensive study is to be made by CBRI, it may also undertake a comprehensive environmental impact assessment covering all kinds of pollution - air, ground water, visual noise etc. by the complete cycle of mining activities including its transportation.

5. Learned senior counsel and counsel for the parties were ad idem that CBRI may be requested to undertake a comprehensive study of all the aspects, as noted in their report of May, 2013 and the above suggestions of Mr. Harish N. Salve and Ms. Aishwarya Bhati.

6. We, accordingly, request the CBRI to undertake a comprehensive study of all relevant aspects and facets as noted above. The CBRI may submit its report within six months from today. The entire expenditure of CBRI shall be borne by the petitioner - Birla Corporation Limited in S.L.P. (C) No. 21211 of 2012.

7. We clarify that the petitioner - Birla Corporation Limited shall make the payment to CBRI within 10 days of receipt of demand (towards expenses) that may be made by CBRI.

List the matter after six months.

| (Pardeep Kumar)  
| Court Master

| | (Renu Diwan)  
| | Court Master

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