REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION(C)NOS.7366-7367 OF 2010

Govt. of Andhra Pradesh & Ors. ....Petitioners

Versus

M/s. Obulapuram Mining Co. Pvt. Ltd.& Ors. Etc. ...Respondents

O R D E R

1. **Determination of right to mining iron ore, a natural resource, has reached this Court in second round of litigation. Respondent No.1 in both the Special Leave Petitions had challenged the Order of State of Andhra Pradesh issued on 25.11.2009, suspending the mining operations of the respondent No.1-Company (R-1 is different in both SLP's), based on the proceedings of Principal Chief Conservator of Forests, Hyderabad dated 6.11.2009, 20.11.2009 and letter dated 23.11.2009 issued by Member of Central Empowered Committee. Against the interim order passed in favour of the respondent No.1-Company by the High Court of Judicature at Hyderabad, State had preferred to approach this Court in SLP(C)Nos.35169-35170 of 2009 titled *Government of Andhra Pradesh & Ors.* Vs. *M/s Obulapurm Mining Co. Pvt. Ltd. & Ors.* on the ground that no case was**

made out by respondent No.1-Company for grant of injunction, against those orders challenged in the writ petition and therefore, those interim orders passed by the Division Bench of the High Court be vacated and till the pendency of the Special Leave Petitions in this Court, they be stayed.

2. Those matters had come up for hearing before this Court on 14.1.2010. Since the Special Leave Petitions were against the interim orders passed by the High Court, it was deemed fit and proper to dispose of the same with a request to the High Court to consider the matter on merits, in accordance with law, within a period of four weeks. However, it was directed that the interim order passed by this Court would continue, meaning thereby that no mining operation would be carried out by respondent no.1 till the pendency of the writ petitions.

3. The relevant part of the said order dated 14.1.2010, passed by this Court is reproduced hereinbelow for ready reference:

> "We make it clear that both the parties are allowed to raise their contentions in respect of the report of the C.E.C. The pendency of any matter regarding this before this Court need not preclude the High Court from considering the C.E.C. Report on merits. We also make it clear that this Court had not specifically directed the C.E.C. to file its Report as regards these leases. The High Court shall also hear the

> **C.E.C. who is made as one of the respondents in these proceedings. The facts stated by the C.E.C. may be considered on merits by the High Court. One of the conditions in the impugned order is that the State Government shall be free to identify, demarcate and fix the boundaries of the leased areas after giving notices to the applicants. It may be done by the State Government and the interim stay ordered by this Court will continue, except as regards this condition, till the High Court passes a final order. The parties would appear before the High Court on 18.01.2010. These appeals are disposed of accordingly. Consequently, Special Leave Petition (C)Nos. 1301/2010 and 1379/2010 are also disposed of. No costs.**
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> **As learned counsel for the respondent points out that they have got international agreements, the High Court should endeavour to dispose of the matters as early as possible, at least within a period of four weeks."**

4. **In the light of the aforesaid order passed by this Court, the matter was heard again by the Division Bench of the High Court on merits. By a detailed and reasoned judgment and order, High Court was pleased to allow the writ petitions filed by respondent No.1 and the orders challenged in the writ petitions were set aside and quashed.**

5. **State of Andhra Pradesh, once again feeling aggrieved by the impugned final order, approached this Court by filing two separate Special Leave Petitions. The same came up for hearing before the Bench on 11.3.2010. On the said date, the following Order came to be passed:**

" List on 22.3.2010.
Status quo shall be maintained till then."

6. On 22.3.2010, the matter was heard for some time through their learned counsel appearing for both sides. Looking to the serious allegations and counter-allegations levelled by the parties, as an interim measure, it was thought fit to first work out the boundaries of the disputed mining leases and the same be determined/demarcated by experts, only then, it was thought fit to pass an appropriate order with regard to vacating/modifying order of status quo dated 11.3.2010. Relevant operative part of the order dated 22.3.2010 is reproduced hereinbelow:

> "As an interim measure, we direct that boundaries of these six mining leases be determined/demarcated by a team consisting of senior representatives/officer of the Survey of India from Dehradun Headquarters Heading the Team. Others would be member from MoEF, Mining Department, Forest Department and Revenue Department of State of Andhra Pradesh. Representatives of lessees with assistance of surveyor, if any, can be represented in the team of survey only to facilitate the team to complete the work as mentioned hereinabove at an early date.
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> The first respondent have got three mining leases consisting of 68.5 hectares, 25.98 hectares and 39.5 hectares respectively. The team headed by Survey of India is directed to survey in respect of 68.5 hectares of land first and to file a Report on or before 9.4.2010. As soon as the survey of this lease is over, they can proceed with the rest of the mining leases held by the other five lessees.

The team shall meet on 26.3.2010 and start measurement work soon thereafter on day-to-day basis. There shall be no mining operations in these leases till 9.4.2010.

Copy of this order be remitted to Survey of India Headquarters, Dehradun immediately and it be faxed also.

List on 9.4.2010."

7. An interim Report came to be submitted by the Committee constituted by this Court on 9.4.2010. In the said interim Report, following recommendations for further work were asked for:

"1) The lease sketches based on which the leases have been allotted to different mine holders, have quite appreciable linear and angular misclosures. They need to be revised by Government of Andhra Pradesh.

2) All lease area sketches in each cluster should be made with reference to at least two common reference points which are permanent in nature like village tri-junction, village boundary/inter-State boundary pillars with their co-ordinates. Offset from interstate boundary should be clearly mentioned on sketches.

3) Inter-state boundary between Andhra Pradesh and Karnataka States has been demarcated as shown by local officials of both the Govts. as appearing on latest Survey of India topographical map. But it has to be verified by the govt. concerned. Lease areas are adjoining inter-state boundary falling in Bellary reserved forest. There is a long standing boundary dispute between adjoining states in this area. This issue has to be resolved before demarcation can be started.

4) There should be no mining operation during

survey work.

Once the above requirements for initiation of surveying and demarcation work is fulfilled, Survey of India team can demarcate the boundaries of all six leases with boundary pillars co-ordinated in grid as well as spherical terms."

8. In view of this, we directed that matter be listed for further hearing on 23.4.2010 but Final Report was not filed by the said date, instead, was filed subsequently on 30.4.2010, alongwith Annexures. While submitting the Final Report, Committee made the following recommendations:

"(3) Recommendations:

(3.1) Considering major discrepancies in mining lease sketches, entire lease sketches issued in Bellary Reserve Forest area need to be reviewed. All lease sketches have to be re-drawn correctly with reference to at least two reference (permanent) points on ground. Two departments of same Government should not issue two different approved sketches.

(3.2) Ministry of Home Affairs, Government of India, Chief Secretary, Government of Andhra Pradesh and Chief Secretary of Karnataka may be directed to decide the Inter-State boundary between Karnataka & Andhra Pradesh in Bellary Reserve Forest area to facilitate demarcation work.

(3.3) There should be no mining operations during demarcation work.

(3.4) To avoid any dispute in future, all pillars on boundaries of mine leases should be provided latitude and longitude which will be done during demarcation work."

9. In the light of the aforesaid recommendations having been made by the Committee constituted by this Court, we have heard learned counsel for parties at length, perused the interim as well as final Report, as also the records.

10. Mr. Goolam E. Vahanvati, learned Attorney General appearing for the State of Andhra Pradesh as well as Mr. Gopal Subramaniam, learned Solicitor General appearing for Survey of India, strenuously contended before us that unless recommendations of the final Report of the Committee are not implemented in letter and spirit, respondent No.1-Company should not be allowed to carry on mining of Iron Ore as the mining operations are likely to seriously affect demarcation and determination of boundaries between two States, i.e. State of Andhra Pradesh and State of Karnataka. It was further contended by them that the said exercise is likely to be completed within a period of three months. In the meanwhile the interim order of status quo passed by this Court, in earlier round of litigation, which is in operation for the last about four months should be allowed to continue till the said exercise is completed.

11. On the other hand, learned senior counsel appearing for Respondent No.1, Mr. K. Parasaran, Mr. P.P. Rao, Mr. Mukul Rohatgi, ably assisted by their juniors vehemently contended before us that the final Report filed by Survey

of India would reveal that respondent No.1-Company cannot be blamed at all as it has neither encroached nor has done any mining operations out of the leased area. Therefore, they have contended that no prima facie case has been made out by the petitioners to stop the mining operations even now. It was also contended by them that the time has now come when equities are to be worked out and looking to the international contracts entered into by respondent No.1 with various international Companies, this Court should allow the mining operation, at least from those areas which can be said to be undisputed.

12. It was also suggested during the course of the hearing by the learned counsel appearing for respondent No.1 that in any case, they would not carry out mining operations within 100 to 150 metres from the Karnataka border as has been shown in the base map filed by Survey of India on 4.5.2010 (Annexure 'A') which shall form part of this order. It was also submitted by them that to safeguard the interest of the petitioner-State, they would erect a barbed wire fencing throughout Karnataka border with regard to those leases which are abutting Karnataka border 150 metres away from the same and in any case, would not carry out any mining operations in those areas or other disputed areas till final demarcation of boundaries is completed.

13. **On the submissions as having been advanced by learned counsel for parties, we have given our serious thought and deliberations to the same. In our considered opinion, respondent No.1-Company can be allowed to start the mining operation only with regard to undisputed area which neither falls in the State of Karnataka nor would be abutting Karnataka boundary. It will also not be permitted to do any mining operation in those areas which according to the base Map dated 4.5.2010 Annexure 'A' fall within its leased area but may be falling in the leased area of other lessees. To clarify further, we direct that mining operations, if at all are to be carried out by respondent No.1, then it shall be done only and only in the undisputed areas. If they try to encroach upon any other area, then it shall be open for the petitioners to forthwith stop the mining operations of respondent No.1. This permission is granted to Respondent No.1 to work out equities between the parties but on account of it Respondent No.1 shall not be able to claim any right as the same would be finally adjudicated upon at the time of hearing of the Special Leave Petitions.**

14. **To oversee the directions to be followed by respondent No.1, the same Committee appointed by us would put a temporary fence at the Karnataka border as per base map**

(Annexure 'A') at the cost of respondent No.1 and be further at liberty to visit the spot at any time and to report the matter to us. In case of any violation thereof respondent No.1 would be exposing itself for committing contempt of this Court. Mining operations can be started by the respondent No.1 only after it would put a barbed wire fencing of 10' high throughout Karnataka border.

15. **The Committee constituted vide order dated 22.3.2010 passed by this Court would continue to earmark the boundaries of State of Andhra Pradesh and State of Karnataka. Since State of Karnataka is not a party respondent in this litigation, we request the Chief Secretary of State of Karnataka to appoint officers of its Forest Department and Mining Department so that it could cooperate and render full assistance in the exercise of demarcation within the stipulated period.**

16. **Even though, the Committee has requested us for grant of further period of three months to effectively complete the process of demarcation, but we deem it fit and proper to grant only two months' time to them keeping in mind, the ensuing rainy season.**

17. **We also clarify that either of the parties would be at liberty to approach this Court for further directions, if need, so arises. With the aforesaid directions, the interim**

order passed by this Court on 11.3.2010 and extended from time to time stands modified to the aforesaid extent.

18. All parties would fully co-operate with the Committee to complete the demarcation work at the earliest and would not cause any hindrance in its work. They would also not in any manner try to overreach this order.

19. For the purpose of effective demarcation to be carried out by Committee, it shall be open for it to ask respondent No.1 to stop mining operations in that area where demarcation is to be done and the same shall be strictly obeyed by respondent No.1.

20. Special Leave Petitions be listed for hearing in due course.

.....CJI
[K.G. Balakrishnan]

.....
...J.
[Deepak Verma]

New Delhi. **.....J.**
May 10, 2010 **[B.S. Chauhan]**