ITEM NOS.301 & 304 COURT NO.1 SECTIONS XIIA,X,PIL

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) Nos.7366-7367/2010

(From the judgement and order dated 26/02/2010 in WP No.25910/2009 and WP No.26083/2009 of The HIGH COURT OF A.P. AT HYDERABAD)

GOVT.OF A.P.& ORS. Petitioner(s)

VERSUS

M/S OBULAPURAM MINIG.CO.P.LTD.& ORS. ETC. Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned judgment, directions, impleadment, prayer for interim relief and office report)

With S.L.P. (C) Nos.32690-32691/2010
(With prayer for interim relief and office report)

W.P. (Crl.) No.66 of 2010
(With appln(s) for directions and office report)

S.L.P. (C) Nos.17064-17065 of 2010
(With prayer for interim relief and office report)

Writ Petition (C) No.562 of 2009
(With appln(s) for ex-parte stay, permission to file additional documents, exemption from filing O.T. and impleadment)

S.L.P. (C) No...../2010 (CC 16829/2010)
(With appln(s) for c/delay in filing SLP and office report)

S.L.P. (C) No...../2010 (CC 16830/2010)
(With appln(s) for c/delay in filing SLP and office report)
[For directions]

Writ Petition (C) No.411 of 2010
(With appln.(s) for directions and office report)

S.L.P. (C) No.353 of 2011
(With prayer for interim relief and office report)

S.L.P. (C) Nos...../2011 (CC 8313-8316/2011)
(With appln(s) for permission to file SLPs, prayer for interim relief and office report)

...2/-

S.L.P. (C) Nos...../2011 (CC 8319-8344/2011)
(With appln(s) for permission to file SLPs, prayer for interim relief and office report)

Date: 06/05/2011 These Matters were called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MR. JUSTICE K.S. PANICKER RADHAKRISHNAN

Mr. Harish N. Salve,Sr.Adv.(A.C.) (N/P)
Mr. A.D.N. Rao,Adv.(A.C.)
Mr. Siddharth Chaudhary,Adv.(A.C.)

For Petitioner(s)
In SLP 7366-67/2010: Mr. T.V. Ratnam,Adv.

In SLP 17064-65/2010: Mr. Parag P. Tripathi,ASG.
Mr. T.V. Ratnam,Adv.

In SLP 32690-91/2010: Mr. Sindhu T.P.,Adv.
Mr. P.V. Vinod,Adv.
Mr. P.V. Dinesh,Adv.

In WP 66/2010: Mr. Prashant Kumar,Adv
Ms. Triveni Potekar,Adv.
Ms. I. Bimla Devi,Adv.

In WP 562/2009: Mr. Prashant Bhushan,Adv.
Mr. Pranav Sachdeva,Adv.

In CC 16829/2010 and 16830/2010: Mr. K. Raghavacharayulu,Adv.
Mr. Pragyan Sharma,Adv.
Mr. Sridhar Potaraju,Adv.
Mr. D. Julius,Adv.
Mr. Gaochangpou Gangmei,Adv.

In WP 411/2010: Mr. Anil B. Divan,Sr.Adv.
Mr. K. Gooptu,Adv.
Mr. Ranvir Singh,Adv.
Mr. Rohit Kumar Singh,Adv.

Mr. Krishnandu Gooptu,Adv.
Mr. Ranvir Singh,Adv.
Mr. P. Ramesh Kumar,Adv.

..3/-

In SLP 353/2011:	Mr. G. Umapathy,Adv. Ms. Sudha Umapathy,Adv. Mr. S. Ramsubramanian,Adv. Mr. Rakesh K. Sharma,Adv.
In CC 8313-16/2011 and CC 8319-8344/2011:	Mr. A.D.N. Rao,Adv.
For Respondent(s)	Mr. Mukul Rohtagi,Sr.Adv. Mr. K. Raghavacharayulu,Adv. Mr. Sridhar Potaraju,Adv. Mr. D. Julius Riamei,Adv. Mr. Gaochangpou Gangmei,Adv. Mr. H.P. Raval,ASG. Ms. Asha G. Nair,Adv. Mr. Satya Siddiqui,Adv. Mr. S.S. Rawat,Adv. Mr. S.K. Mishra,Adv. Mr. D.S. Mahra,Adv. Mr. Rakesh K. Sharma,Adv. Mr. P.V. Dinesh,Adv. Ms. T.P. Sindhu,Adv. Mr. P.V. Vinod,Adv. Mr. R.G. Kolle,Adv. Ms. Anitha Shenoy,Adv. Ms. Rashmi Nandakumar,Adv. Mr. G.N. Reddy,Adv. Mr. P.P. Malhotra,ASG. Ms. Sukhbeer Kaur Bajwa,Adv. Mr. Gaurav Sharma,Adv. Mr. S.N. Terdal,Adv. Mr. Harin P. Raval,ASG. Mr. Ashok K. Srivastava,Adv. Mr. B.K. Prasad,Adv. Mr. C.A. Sundaram,Sr.Adv. Mr. Manu Nair,Adv. Mr. Anuj Berry,Adv. for M/s. Suresh A. Shroff & Co.,Advs.

...4/-

For FIMA: **Mr. D.A. Dave,Sr.Adv.**
Ms. Kiran Suri,Adv.
Mr. K.N. Phanindra,Adv.
Mr. Vijay Verma,Adv.

Mr. F.S. Nariman,Sr.Adv.
Mr. Sunil Dogra,Adv.
for M/s. Lawyers Knit and Co.,Advs.

Ms. C.K. Sucharita,Adv.

Mr. A.K. Sharma,Adv.

Mr. K.K. Venugopal,Sr.Adv.
Mr. K.G. Reghavan,Sr.Adv.
Mr. Sanjay R. Hegde,Adv.
Mr. Rajesh D.M.,Adv.
Mr. Rajesh S.U.,Adv.
Mr. Krutin R. Joshi,Adv.
Mr. Anil Kumar Mishra,Adv.

Mr. Parag P. Tripathi,ASG.
Mr. Anuj Bhandari,Adv.

Mr. Ranjit Kumar,Sr.Adv.
Mr. Jay Savla,Adv.
Mr. D. Julius Raimei,Adv.
Mr. Sumit Ghosh,Adv.
Ms. Renuka Sahu,Adv.

Mr. S. Ganesh,Sr.Adv.
Mr. Syed Naqvi,Adv.
Ms. Namrata Kapoor Sharma,Adv.
Mr. Kunal Verma,Adv.

Mr. D.L.N. Rao,Sr.Adv.
Mr. S.K. Kulkarni,Adv.
Mr. Ankur S. Kulkarni,Adv.
Mr. Anirudh Anand,Adv.
Mr. M. Gireesh Kumar,Adv.

Mr. R.S. Suri,Sr.Adv.
Mr. Avinash Kumar,Adv.

...5/-

For NMDC Ltd.: Mr. Goolam E. Vahanvati,AG.
Mr. Parag P. Tripathi,ASG.
Mr. Devadat Kamath,Adv.
Mr. S. Sukumaran,Adv.
Mr. Anand Sukumar,Adv.
Mr. Bhupesh Kumar Pathak,Adv.
Ms. Meera Mathur,Adv.

UPON hearing counsel the Court made the following

O R D E R

In the Report dated 18th December, 2008 of the Karnataka Lokayukta, it is, inter alia, stated that 1081.40 hectares of forest area is under illegal mining/encroachment by way of mining pits, over burden dumps, construction of roads, etc., undertaken by various lease holders outside their sanctioned mining lease area. The break-up of the said area, as given in the Report of the Karnataka Lokayukta reads as under:

Sl. No.		(In Hectares)
1.	Encroachment in the form of extraction of iron ore (pit)	147.29
2.	Encroachment due to waste dumps	306.07
3.	Other type of encroachments	504.09
4.	Encroachment due to construction of roads to mines	124.90
	Total encroachments	1081.40
	Total length of the mining roads (in Kms)	180.42

Out of 99 cases dealt with in the Report, illegal mining/encroachment, as described hereinabove, is taking place in 74 cases (60 cases involve encroachment of forest areas) while, in the

....6/-

remaining 25 cases, the illegal mining/encroachment was not found/surveyed. This position is indicated by the relevant statements annexed to the CEC Report as Annexure R-52 and Annexure R-53.

In some of the cases, which are brought before us today, at the ad-interim stage, we find prima facie that the input supplied to us on encroachment needs re-verification before taking decision on the interim relief sought by the CEC. The lessees complain that they were not heard on the question of encroachment. There are lessees who have orders in their favour of the High Court.

Since the matter(s) is at the stage of mentioning, we are of the view that under the above circumstances at this stage we must accept one of the recommendations of the CEC being Recommendation (ii) by which CEC has suggested constitution of a Joint Team of Senior Representative of the Forest Department and Department of Mines and Geology of the State of Karnataka to carry out the demarcation of the concerned leases in the presence of the representatives of the mining lease holders. However a request is made by Shri Prashant Bhushan, learned counsel for the petitioner in Writ Petition 562 of 2009 that the team should include the representative of the Karnataka Lokayukta.

Accordingly, we direct that the said team shall consist of the following:

(i) Senior representative of the Forest Department

(ii) Senior representative from Department of Mines and Geology, State of Karnataka.

...7/-

(iii)Representative of the Karnataka Lokayukta

(iv) Member of the CEC

The said team will visit the site after giving notice to the concerned lessee(s) and in the presence of the concerned lessee(s), the said team shall carry out the demarcation of the concerned leases on the ground as well as on the satellite images after taking into consideration the relevant sanctioned lease sketches, survey and demarcation sketch of the lease, sketches of the adjoining leases and other relevant information. On undertaking that exercise in the presence of the concerned lessee(s) if the Joint Team comes to the conclusion that there has been an illegal mining in the encroached area then the lessee shall forthwith stop all mining operations not only in the encroached area but in the entire leased demarcated area of that concerned lessee. The word "encroachment" will be understood to cover mining pits, over burden dumps, construction of roads etc.

The Report of the Joint Team will be placed before this Court on the reopening after ensuing summer vacation, on which date the concerned lessees who are directed to stop mining operations could respond. On that date their arguments will be considered.

<u>Report No. IV of CEC:</u>

Report No. IV of CEC is converted into an interlocutory application.

Issue notice on the interlocutory application.

Pending hearing and final disposal of the matter, till further orders, mining operations undertaken by M/s Lakshminarayana Mining Company shall immediately stand suspended, which will also include transportation of already mined iron ore.

Place this matter in July, 2011.

The interlocutory application filed by NMDC Limited is taken on record.

We request Mr. Shyam Divan, learned senior counsel, to act as Amicus Curiae and assist us in these matters in future. The CEC is directed to supply the requisite papers to the learned senior counsel.

[T.I. Rajput]
A.R.-cum-P.S.

[Madhu Saxena]
Assistant Registrar