

SUPREME COURT OF INDIA

Government of A.P.

Vs.

Obulapuram Mining Co. Pvt.Ltd

C.A.Nos.269-270 of 2010

(K.G. Balakrishnan CJI, Deepak Verma and Dr. B.S. Chauhan JJ.)

14.01.2010

ORDER

1. Permission to file SLPs granted.

2. The petitioner herein filed an application for getting himself impleaded in a Writ Petition filed before the High Court and the same was rejected by the High Court. The petitioner alleges that before the High Court a reference has been made to the petitioner in paragraphs in 16,17,18 and 21 in the Writ Petition filed by the respondent. Learned counsel appearing for the respondent submits that the respondent is prepared to delete all statements/averments made in the Writ Petition pertaining to respondent-Mr.Tapal Ganesh, who is the appellant herein. We record the same. These statements/averments are deemed to have been expunged and while considering the Writ Petition by the High Court, the averments be ignored.

3. The Special Leave Petitions are disposed of accordingly.

SLP(C) NOS..... CC NOS.21271-21272:

2 Permission dismissed.

CIVIL APPEAL NOS.269-270/2010 @ SLP(C)Nos.35169-35170/2009:

4. Leave granted.

5. The State of Andhra Pradesh has filed these appeals challenging the interim order passed by the High Court of Judicature of A.P. at Hyderabad in different Writ Petitions which were jointly heard by the High Court. The respondents herein were granted three leases for mining and there were allegations that the lease/licence holders had extended the mining activities beyond the boundaries of the leasehold properties and that the Central Empowered Committee (for short 'C.E.C.') has filed a Report on 19.11.2009 and in the Report it was stated that there were certain violations of boundaries of the lease-hold area. After the report

of the C.E.C., the State Government passed an order stopping the mining operations on 25.11.2009. This order was challenged by the respondents in these two appeals. By the impugned order, the High Court permitted these respondents to go on with the mining subject to certain conditions. The operative portion of the order is as follows :

"1) The applicants are entitled to carry on mining operations within the designated mining areas covered by the leased deeds;

2) the applicants shall not carry on mining operations to the extent of the area of about 40 meters towards the Karnataka boundary as pointed out by the Three Member Committee in respect of Compartment Nos.698 and 699 of Bellary reserved forest, pending further orders;

3) the State Government shall be free to identify, demarcate and fix the boundaries of the 3 leased areas after giving notices to the applicants;

4) on such demarcation, if the State Government finds that the applicants have occupied any area beyond the leased areas, it is entitled to invoke its power under Section 21 of the Act, evict the applicants from such unauthorized areas and exercise all the powers vested in it under the said provision, after following the prescribed procedure;

and 5) the applicants shall furnish bank guarantee for the entire A stock(iron ore) of 1,95,000 tons, which is said to be lying in their stock yards, at the rate as fixed by the competent authority as per Rules in force, before transporting the iron ore from their stock yards."

6. This Court, while entertaining these appeals, granted stay of the impugned order on 17.12.2009.

7. The parties have filed their counter affidavits/replies and we have heard both sides. We are told that the main Writ Petitions are coming up before the High Court on 18.01.2010.

8. Learned counsel appearing for the State Government shall file its counter affidavit and documents, if any, within a week and as this Court has passed the interim stay of the order, the High Court shall consider the main matters and dispose of the same as early as possible at least within a period of four weeks. In the impugned judgment the High Court has made certain observations regarding the C.E.C. Report. We make it clear that both the parties are allowed to raise their contentions in respect of the report of the C.E.C.

9. 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 4 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.

10. Consequently, Special Leave Petition (C)Nos.1301/2010 and 1379/2010 are also disposed of. No costs.

11. 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.