

ITEM NO.302

COURT NO.6

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

I.A.NOS. 254, 255, 257 in Writ Petition(s) (Civil) No(s). 562/2009

SAMAJ PARIVARTANA SAMUDAYA &amp; ORS.

Petitioner(s)

VERSUS

STATE OF KARNATAKA &amp; ORS.

Respondent(s)

(for permission to file application for direction and directions  
and office report)

With

I.A. No.260 in W.P. (C) No.562/2009

(Appln. for impleadment)

Date : 25/07/2016      These applications were called  
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI  
HON'BLE MR. JUSTICE PRAFULLA C. PANT  
HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Petitioner(s)      Mr. Govind Jee, Adv.  
For Mr. Prashant Bhushan, Adv.

For Respondent(s)      Mr. Shyam Diwan, Sr. Adv. (AC)

Mr. A.D.N. Rao, Adv. (AC)

Mr. Siddhartha Chowdhury, Adv.

Mr. Sanjiv Sen, Sr. Adv.

Mr. Mahesh Agarwal, Adv.

Ms. Neeha Nagpal, Adv.

Ms. G. Srikar, Adv.

Mr. E.C. Agrawala, Adv.

Mr. Raju Ramachandran, Sr. Adv.

Ms. Anitha Shinoy, Adv.

Ms. Surabhi Aggarwal, Adv.

Ms. Mythili Vijay Kumar Thallam, Adv.

Mr. Vikram Aditya Narayan, Adv.

Mr. C.U. Singh, Sr. Adv.

Mr. Rajat Jariwal, Adv.

Mr. Aakash Bajaj, Adv.

Mr. Sanjeev K. Kapoor, Adv.  
For M/s. Khaitan & Co.

Mr. P.K. Dey, Adv.  
Mr. R. Balasubramanian, Adv.  
Ms. Saroj Bala, Adv.  
Mr. S.A. Haseeb, Adv.  
Ms. Vimla Sinha, Adv.  
Ms. Anil Katiyar, Adv.  
Mr. M.K. Maroria, Adv.

Mr. Satya Siddiqui, Adv.  
Mr. Sarafranj ahmed Siddiquik, Adv.  
Mr. D.S. Mahra, Adv.

Mr. Kabir Hathi, Adv.  
Ms. Asha Nair, Adv.  
Mr. C.S. Makker, Adv.

Mr. Balaji Srinivasan, Adv.  
Ms. Vaishnavi Subrahmanyam, Adv.  
Ms. Srishti Govil, Adv.  
Mr. Arunava Mukherjee, Adv.  
Ms. Pratiksha Mishra, Adv.

Mr. Vikas Mehta, Adv.

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

I.A. No.254 of 2016

Permission to file application for directions is granted. Accordingly, I.A. No.254 of 2016 is allowed.

I.A. No. 255 of 2016

The applicant-review petitioner i.e. M/s. Essar Steel (Hazira) Ltd. has filed the present application with the following prayers :

- (i) Direct acceptance of the report dated 04.09.2014 (Annexure A-14) read with letter dated 09.12.2014 issued by Assistant

Commissioner, Hospet Sub Division, Hospet concluding that the land does not fall within the forest land;

OR ALTERNATIVELY

- Direct the Central Empowered Committee to carry out resurvey of the land in respect of Mining Lease No.2555 dated 11.9.2007 situated in Kakubal Village, Hospet Taluk, Bellari District, Karnataka, admeasuring area of 140 acres (56.667 ha.)
- (ii) Pass any such other further order(s) which this Hon'ble Court may deem fit and proper in the interest of justice."

The materials on record would indicate that a Joint Team was constituted by this Court in the original proceedings i.e. Writ Petition (C) No.562 of 2009 for survey and measurement of the leased areas of the different leases involved in the aforesaid Writ Petition. The Joint Team by adopting the best fit method, which was duly approved by this Court, submitted its report through the C.E.C. after considering the detailed representations of all such lessees who were aggrieved. The said report which was placed before this Court by the C.E.C. for acceptance, was followed by another opportunity to the aggrieved lessees to submit their representations. The applicant-lessee, at no

point of time, had submitted any representation with regard to its boundaries and/or lease area. It is only thereafter that the findings of the Joint Team, as modified by the C.E.C. were accepted by the Court. The relevant recommendation No. (A) of the C.E.C. dated 13.03.2012 as approved by this Court is as follows :

"The findings of the Joint Team and as modified after careful examination by the CEC may be accepted and directed to be followed by the concerned authorities and the respective lessees, notwithstanding anything to the contrary. The boundaries of the mining leases should accordingly be fixed on the ground."

Thereafter, after detailed hearings, the aforesaid C.E.C. report and the reasons for acceptance thereof were reiterated and in paragraph 47 of the judgment dated 18.04.2013 passed in Writ Petition No. 562 of 2009, it was held by this Court as follows :

"We make it clear that we have not understood the above statement as an admission on the part of the Federation and it is on a consideration of the totality of the facts placed before us that we accept the findings of the survey conducted by the Joint Team constituted by

the orders of this Court and the boundaries of each of the leases determined on that basis. We further direct that in supersession of all orders either of the authorities of the State or courts, as may be, the boundaries of leases fixed by the Joint Team will henceforth be the boundaries of each of the leases who will have the benefit of the lease area as determined by the Joint Team. All proceedings pending in any court with regard to boundaries of the leases involved in the present proceeding shall stand adjudicated by means of present order and no such question would be open for re-examination by any body or authority."

After elapse of a long period of time, this application has been filed on the basis of the report of a Survey dated 19.08.2014 by a Joint Team consisting of (a) the Assistant Director of Land Record, Hospet, (b) Assistant Engineer, Directorate of Mines and Geology and (c) Range Forest Officer. It is contended that on the basis of the aforesaid joint survey the boundaries of the lease of the applicant needs to be shifted and the lease area to be redetermined for which a fresh survey by the C.E.C. has been sought as stated in the prayers

made in I.A. No. 255 of 2016, which have been extracted above.

We do not see why the aforesaid prayers made in the application should be acceded to. The lease boundaries of all the affected leases including the present lease was determined by a Court appointed Committee which had adopted what was accepted by this Court to be the latest technology available. Against the findings of the survey by the Joint Team, repeated opportunities were granted to the affected lessees including the applicant. At no point of time either before this Court or before the Joint Team or the C.E.C., it has been contended by the lessee that the lease boundaries have been wrongly fixed and the lease area needs to be shifted and redetermined. It is only after elapse of over two years that on the strength of a survey by a Joint Team of the Karnataka State the present prayers have been made. We do not know, neither it is necessary for us to ascertain what were the circumstances in which the survey by the Joint Team of State of Karnataka was undertaken inasmuch as once the lease boundary has been determined by the Court, it was beyond the powers of any State

Authority to go into the said exercise without the leave of the Court.

Be that as it may, not only the conduct of the lessee but even the legality of the findings of the Joint Survey undertaken by the State officials are in serious doubt. The same, therefore, cannot inspire confidence in the Court to accede to the prayers made in I.A. No. 255 of 2016. The same are refused. Accordingly, I.A. No. 255 of 2016 is dismissed.

I.A. NO.257 IN W.P.(C) NO.562/2009

We have heard Shri Gopal Subramaniam, learned Senior Counsel appearing for the applicant-Sankalapuram Iron Ore Mines, Shri Raju Ramchandran, learned Senior Court appearing for the State of Karnataka, Shri Shyam Divan, and Shri A.D.N. Rao, learned Amicus Curiae and Shri C.U. Singh, learned Senior Counsel appearing for the Karnataka Iron and Steel Manufacturers Association. We have also heard Mr. M.K. Jiwrajka, former Member Secretary, Central Empowered Committee (CEC) who has appeared at the request of the Court.

Arguments remained inconclusive.

List the application for further hearing on

1<sup>st</sup> August, 2016.

We request Mr. M.K. Jiwrajka, former Member Secretary, CEC to place before the Court a brief written note on the suggestions which have been placed today indicating the basis thereof. We also request Mr. M.K. Jiwrajka to do so on or before the Friday next i.e. 29<sup>th</sup> July, 2016 and to be present on the next date of hearing.

As we are hearing the matter we deem it appropriate to shift the last date for response to the queries made by the bidders fixed on 21<sup>st</sup> July, 2016 by two weeks.

I.A. NO.260 IN W.P.(C) NO.562/2009

List the application on 1<sup>st</sup> August, 2016.

(Neetu Khajuria)  
Court Master

(Asha Soni)  
Court Master