

ITEM NO.1

COURT NO.1

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

Writ Petition (Civil) No. 562/2009

SAMAJ PARIVARTANA SAMUDAYA & ORS.

Petitioners

VERSUS

STATE OF KARNATAKA & ORS.

Respondents

(I.A. Nos. 37377, 212, 24335, 117891 and 151195 in I.A. No. 37377 of 2018, 152631, 150757, 162474 and 174816 (applications for directions, permission and intervention) and Office Report for Directions)

WITH

W.P.(C) No. 768/2013 (X)

W.P.(C) No. 448/2018 (X)

Date : 24-01-2019 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE SANJIV KHANNA

Mr. Shyam Divan, Sr. Adv./A.C.
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Mr. R. Balasubramanian, Adv.
Ms. Vimla Sinha, Adv.
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Mr. Ritesh Kumar, Adv.
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UPON hearing the counsel the Court made the following
O R D E R

I.A. Nos. 37377/2018 and 212/2014 in W.P.(C) No. 562/2009

The issue in these applications is whether the leased areas of the lessees in question fall within the Revenue land or Forest land. Two notifications under the Karnataka Forest Act, 1963, dated 4.8.1994 and 4.9.2014 (Corrigendum), were holding the field until the Additional Chief Secretary of the State, vide order dated 21.12.2015, set aside/cancelled the said notifications. The aforesaid order dated 21.12.2015 was sought to be reviewed by the successor vide order dated 29.6.2018. The said order dated 29.6.2018 had been challenged in a series of writ petitions filed before the High Court of Karnataka and by the judgment and order dated 16.11.2018, the High Court has set

aside the order dated 29.6.2018. The effect of the aforesaid order of the High Court is that the notifications under the Karnataka Forest Act, 1963, dated 4.8.1994 and 4.9.2014, are no longer in existence. This, *prima facie*, may go in support of the claim of the lessees to allow them to commence mining in the leased areas.

Ms. Anitha Shenoy, learned counsel appearing for the State of Karnataka has made a statement that the State is proposing to challenge the judgment and order of the High Court, dated 16.11.2018, before this Court and a special leave petition is under preparation. The learned counsel has prayed for four weeks' time and has submitted that these applications be heard alongwith the special leave petition to be filed.

If in the circumstances noted above, a special leave petition is to be filed by the State of Karnataka challenging the order of the High Court, any order in these applications would be premature. We, therefore, adjourn the hearing of these applications to a subsequent date, which will be notified once the special leave petition filed by the State of Karnataka against the judgment and order of the High Court, dated 16.11.2018 comes up before this Court. The State is granted two weeks' time to file the special leave petition, where after, the same will immediately be listed before the Court for admission. At that point of time, learned counsel for the State of Karnataka may make a mention for fixing the special leave petition for consideration alongwith the present applications.

I.A. Nos. 24335/2018 and 152631/2018 in W.P.(C) No. 562/2009

The prayers made in the present applications are refused for the present. The same will be reconsidered

after three months. Within the said period, the Monitoring Committee would submit a report with regard to the sales effected through it up to the date of the filing of the report. Response of the Central Empowered Committee (CEC) and the State of Karnataka may also be filed within that period.

I.A. No. 117891/2018 in I.A. No. 112373/2017 in
W.P.(C) No. 562/2009

Having heard learned counsel for the applicant and the learned Amicus Curiae and having considered the report of the CEC including the stand taken by the Chairman of the Monitoring Committee in the document enclosed as Annexure R-2 to the application, we are of the view that the following order should govern the parties, for the present.

The floor price/reserve price in terms of the order of this Court shall be fixed by the Monitoring Committee, keeping in view the parameters set out by this Court. While fixing the said price, the Monitoring Committee will consider the suggestions that may be made by the lessees from time to time with regard to the price and keep in mind that any lowering of the price that may be made by the lessees would obviously be after taking into account the realities of the market situation.

With the aforesaid direction, the present application is disposed of.

I.A. No. 150757/2018 in W.P.(C) No. 562/2009

The Court requests Mr. Shyam Divan, learned Amicus Curiae to examine the feasibility of the approval of proposals submitted by the State of Karnataka with regard to the Comprehensive Environmental Plan for Mining Impact Zone (CEPMIZ).

Mr. Divan, while doing so, will also take note of the suggestions of Mr. M.K. Jiwrajka, former Member Secretary, CEC contained in a separate note dated 16.11.2018 and also the earlier orders passed by this Court, *inter alia*, to the effect that the funds generated for the Special Purpose Vehicle (SPV) will not be transferred to the consolidated funds of India. We specifically request Mr. Divan to examine as to whether it would be expedient and practical for this Court to take further steps in the matter of finalization of the different plans under the CEPMIZ or whether the said aspect of the matter after broad approval by the Court and after retention of all matters relating to mining infrastructure, as suggested by Mr. Jiwrajka, should be handed over to the appropriate State agency. At this stage, we also record our refusal to go into the counter plan/scheme submitted on behalf of the Federation of Indian Mineral Industries, Southern Region (FIMI, South), as prepared by M/s. Ernst & Young, which has been submitted before the Court. In doing so, we take note of the fact that in terms of the orders of this Court, before the proposals were submitted by the State of Karnataka, the representatives of the FIMI, South were duly consulted.

The writ petitioners - Samaj Parivartana Samudaya and others are permitted to file their response to the proposals submitted by the State of Karnataka, a copy of which will be handed over to Mr. Divan, learned Amicus Curiae.

List the application alongwith I.A. Nos. 37377/2018 and 212/2014 in W.P. (C) No. 562/2009.

I.A. Nos. 162474/2018 and 174816/2018 in W.P.(C) No. 562/2009

Report of the CEC be called for and the

applications be listed alongwith I.A. Nos. 37377/2018 and 212/2014 in W.P. (C) No. 562/2009.

W.P.(C) No. 768/2013 and W.P.(C) No. 448/2018

Let the matters be listed alongwith Writ Petition (Civil) No. 562/2009.

(Deepak Guglani)
Court Master

(Anand Prakash)
Court Master