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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **LETTERS PATENT APPEAL NO. 1131/2006**

Date of order: 2nd May, 2011

KARTAR SINGH Appellant
Through Mr. Ashish Kumar, Advocate.

versus

UOI & ORS. Respondents
Through Nemo.

LETTERS PATENT APPEAL NO. 1136/2006

KARTAR SINGH Appellant
Through Mr. Ashish Kumar, Advocate.

versus

UOI & ORS. Respondents
Through Nemo.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

SANJIV KHANNA, J.:

In these intra-Court appeals, orders dated 21st September, 2004 and 23rd September, 2004 passed in the Writ Petition (Civil) Nos. 3178 and 3179/1989 are under challenge. By order dated 21st September, 2004, CM No. 11099/2004 in Writ Petition (Civil)

No. 3178/1989 and CM No. 11100/2004 in Writ Petition (Civil) No. 3179/1989 have been dismissed. By order dated 23rd September, 2004, the two writ petitions have been dismissed as infructuous.

2. The two writ petitions were filed impugning interim orders dated 2nd June, 1989, 5th July, 1989 and 19th July, 1989 passed by the Central Government in exercise of power under Section 30 of the Mines and Minerals (Regulations and Development) Act, 1957 (Act, for short). The first order dated 2nd June, 1989 directed the Government of Haryana to submit all records pertaining to applications of the applicants, the appellant herein and Haryana Minerals Limited for mining leases for silica sand at two different locations in Faridabad district in the State of Haryana. By order dated 2nd June, 1989, Government of Haryana was directed not to take further action pursuant to the two leases granted to the appellant. By the second order, the interim order passed on 2nd June, 1989 was extended and the appellant was also directed not to take further action in pursuance to the grant given by the State of Haryana. The last order dated 19th July, 1989 noticed that the State Government had not sent relevant records and had directed that the said records should be made available.

3. By an order dated 8th November, 1989 passed in the two writ

petitions, Writ Petition (Civil) Nos. 3178/1989 and 3179/1989, it was directed that no orders adverse to the interest of the appellant would be passed unless further hearing was given and the appellant was heard. On 20th February, 1990, Rule was issued in the two writ petitions and it was directed that in case any order adverse to the interest of the appellant was passed, it would not be given effect to during the pendency of the writ petitions.

4. Hearing of the Revision Petitions under Section 30 of the Act continued before the Central Government and by an order dated 15th March, 1991, the two leases granted to the appellant by the State of Haryana were cancelled/set aside. The appellant did not question and challenge this order dated 15th March, 1991 passed by the Central Government under Section 30 of the Act. It is apparent that the appellant was enjoying the benefit of the interim order dated 20th February, 1990 and, therefore, kept quiet.

5. The two writ petitions after admission came up for final hearing in the Regular List. In September, 2004, after a gap of nearly 13 years, the appellant filed two applications Nos. 11100/2004 and 11099/2004 for amendment of the writ petitions and to challenge the order dated 15th March, 1991 passed by the Central Government. These two applications have been dismissed

by order dated 21st September, 2004 by the learned single Judge recording as under:-

“ It may also be noticed that the petitioner was conscious of the fact that at the stage when the petitioner approached this Court, the grievance was only in respect of the interim order. The interim relief was not granted staying the proceedings before the Central Government, but that the final order would not be given effect to in case it was prejudicial to the interest of the petitioner. Rule was issued on 20.02.1990 and the matter was expedited to be preferably heard within 4 months. It was, thus, expected that the writ petition would be heard expeditiously. The matter was, however, not heard for a considerable period of time and has been pending since then. In the meantime, during the pendency of the writ petition, the final order was passed as far back as on 15.03.1991. The petitioner was under legal advice and would be conscious of the fact that this final order was required to be challenged on merits since the challenge in the present petition was only to the interim order whereby the rights of the petitioner were kept in abeyance. The object apparently was also that in case an adverse final order was passed, the same would not be immediately given effect to and the petitioner would have liberty to challenge the final order. The petitioner has kept silent on this issue for more than 13 years and there is no cogent explanation for this delay.

The petitioner having kept silent and having failed to challenge the final order now seeks through this amendment to indirectly seek what may not be possible for the petitioner otherwise through a substantive proceedings, since the petitioner would have to

explain the delay in challenging the final order.

It is also to be noticed that the lease was to be granted for a period of 10 years. From the original date, more than 15 years have passed and the passage of time itself has to that extent negated the relief claimed for by the petitioner.

There has been a further development in view of the directions passed by the Hon'ble Supreme Court whereby admittedly no mining is going on in the area for quite some time. There is, thus, no question of any rights being granted to anybody in view of the directions passed by the Supreme Court."

6. Facts noticed above show that the aforesaid findings of the learned single Judge are just, fair and as per law. Having obtained interim order dated 20th February, 1990, the appellant did not take steps to challenge the order dated 15th March, 1991 passed by the Central Government. Order dated 15th March, 1991 was required to be challenged immediately after the same was passed either by amending the writ petition or by filing a fresh writ petition. Delay in not bringing the order dated 15th March, 1991 to the notice of the Court was intentional and with a purpose. The delay and laches in moving the amendment applications justified their dismissal. The appellant continued to enjoy the benefit of the interim order passed by the Court on 20th February, 1990 and did not want to bring the

order dated 15th March, 1991 to the notice of the Court. The learned single Judge has, therefore, rightly dismissed the two amendment applications by the order dated 21st September, 2004. It may be noticed here that the Supreme Court has already directed ban of mining in Faridabad area. Further, as noticed by the learned single Judge that by the order dated 10th September, 1989 leases were granted for a period of ten years and the period has come to an end. Accordingly, we do not find any justification to interfere with or set aside the order dated 21st September, 2004.

7. The necessary corollary and consequence is that the challenge to the order dated 23rd September, 2004 has to fail. The subject matter of the two writ petitions were the interim orders, which merged and extinguished when the final order was passed by the Central Government on 15th March, 1991 and, therefore, the challenge to the interim order becomes infructuous and inconsequential.

The appeals are accordingly dismissed. No costs.

SANJIV KHANNA, J.

CHIEF JUSTICE

**MAY 02, 2011
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