

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

Writ Appeal No.797 OF 2016

Between:

The State of Andhra Pradesh rep., by the Principal Secretary, Industries
& Commerce Department and others.

.... Petitioner

Vs.

M/s. Maheswari Minerals, rep., by the Managing Partner
P. Ramakrishna and another

.... Respondents

DATE OF JUDGMENT PRONOUNCED: 17.09.2016.

SUBMITTED FOR APPROVAL:

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

1. Whether Reporters of Local newspapers may
be allowed to see the Judgments? -
2. Whether the copies of judgment may be marked
to Law Reports/Journals Yes
3. Whether Their Ladyship/Lordship wish to see the
fair copy of the Judgment? Yes

JUSTICE RAMESH RANGANATHAN

*** THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
* THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

+ WRIT APPEAL No. 797 OF 2016

% Dated 17-09-2016

The State of Andhra Pradesh rep., by the Principal Secretary,
Industries & Commerce Department and others.

.... Petitioner

Vs.

\$ M/s. Maheswari Minerals, rep., by the Managing Partner
P. Ramakrishna and another

.... Respondents

! Counsel for petitioner: Learned Advocate General (AP)

^ Counsel for respondents: Sri E. Manohar, Learned Senior
Counsel, Sri P. Kamlakar

<GIST:

> HEAD NOTE:

? Citations:

- 1) (2005) 6 SCC 138
- 2) (2000) 2 SCC 617
- 3) AIR 1987 SC 2235
- 4) AIR 1989 SC 1972
- 5) (1984) 2 SCC 436
- 6) (1985) 1 SCC 260
- 7) (185) 3 SCC 217
- 8) (1995) 3 SCC 257
- 9) 1994 Supp (3) SCC 220
- 10) AIR 1983 SC 1272
- 11) (2009) 14 SCC 48
- 12) (2009) 5 SCC 452
- 13) (2004) 11 SCC 168
- 14) (1994) 5 SCC 380
- 15) (2006) 10 SCC 261
- 16) (2011) 14 SCC 227 : (2012) 4 SCC (Civ) 935 : (2012) 2 SCC (L&S) 890
- 17) 1952 SCR 28 : AIR 1952 SC 12

**THE HON'BLE THE ACTING CHIEF JUSTICE SRI RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO**

WRIT APPEAL NO.797 OF 2016

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Sri Ramesh Ranganathan)

This Appeal, under Clause 15 of the Letters Patent, is preferred by the State of Andhra Pradesh against the order passed by the Learned Single Judge in W.P.M.P. No.33420 of 2016 in W.P. No.26992 of 2016 dated 12.08.2016. The respondent-writ petitioners herein had, in W.P.M.P. No.33419 of 2016 in W.P. No.26992 of 2016, sought suspension of operation of letter No.5650/MDRC/2016 dated 01.08.2016 of the Assistant Director of Mines and Geology, Rajahmahendravaram, East Godavari District. In W.P.M.P. No.33420 of 2016, the respondent-writ petitioners had sought a direction from this Court to the said Assistant Director of Mines and Geology to issue transit passes for transporting laterite mineral, from their licensed stock yards, for the quantities applied as per the A.P. Mineral Dealers Rules, 2000.

In the interlocutory order dated 12.08.2016, passed in both the aforesaid W.P.M.Ps, the Learned Single Judge noted the submission, urged on behalf of the respondent-writ petitioners, that the Division Bench had directed that the petitioners should be allowed to deal with the laterite mineral in the stock yard in accordance with the rules; after completing the exercise of conducting inventory, transit passes may also be issued to them; the Assistant Director, Mines and Geology could not deny issuance of transit passes to the petitioners; and this conduct of the Assistant Director, Mines and Geology practically amounted to committing contempt of the orders passed by the Division Bench.

The Learned Single Judge also took note of the submission, urged on behalf of the appellants herein by the Learned Special Government Pleader, that the order of the Division Bench was that, till the Director, Mines and Geology, Government of Andhra Pradesh, Hyderabad took a decision in respect of the alleged excavation of Laterite mineral by the lessees, transit passes were not liable to be issued.

After referring to the order passed in W.P.No.16089 of 2016 dated 14.07.2016, the Learned Single Judge observed that the Division Bench had directed inventory of the minerals, stored in the stock yard, by the Assistant Director, Mines and Geology; it had directed preservation of the record of such inventory till the Director, Mines and Geology took a decision whether to proceed against the petitioner in respect of the alleged illegal excavation of the said stock of minerals; it had further directed the Assistant Director, Mines and Geology to allow the lessees thereafter to deal with the mineral, stored in the stock-yard, in accordance with the rules, and this would be subject to the action which would be later proposed by the respondents against the lessees; and it had made it clear that, after completing the exercise of conducting inventory, the concerned authorities could issue transit passes in accordance with law.

The Learned Single Judge held that it was not in dispute that a show-cause notice had been issued to the respondent-writ petitioner on 20.07.2016 as well as to the lessees, and they had submitted their explanations thereto; the interpretation sought to be placed by the Special Government Pleader was clearly contrary

to the language used in the order passed in W.P.No.16089 of 2016 dated 14.07.2016; the Division Bench had clearly permitted issuance of transit passes after completion of inventory; and the dealing by the petitioner, or lessees with the said mineral, was permitted subject to further action which may be initiated by the respondents against them. While rejecting the contention put forth by the Learned Special Government Pleader, the Learned Single Judge granted interim suspension and interim direction as prayed for in both the WPMPs.

Learned Advocate-General, appearing on behalf of the appellants, would submit that the mineral stored in the stock godowns, of the respondents-writ petitioners herein, is the mineral, illegally quarried by several lessees, (one of whom is the respondent-writ petitioner), from areas outside their leases; the Division bench, in its order in WP (PIL) No.48 of 2016 dated 14.07.2016, had directed the Director, Mines & Geology to take a decision whether or not to initiate action, if he so choose, to issue show cause notice and pass an order, and till the show cause notice issued by the Director, Mines & Geology was decided, respondents 12 to 18 should not carry on any quarrying operations on the basis of the mining lease; these directions were issued to enable the authorities to determine whether the lessees had resorted to theft of valuable mineral, extracting it from outside their leased areas; it is in such circumstances that the Division bench, in its order in W.P. No.16089 of 2016 dated 14.07.2016, had directed the Assistant Director, Mines & Geology to cause an inventory of the minerals stored in the stock yards, and to preserve the record till the Director, Mines & Geology took a decision

whether or not to proceed against the petitioner in respect of the alleged illegal excavation of the said stock of minerals; the entire object was to ensure that the illegally quarried mineral was not transported outside the stock yard for its sale, till the Director, Mines & Geology passed an order; the Learned Single Judge was not justified in construing the order of the Division bench as if it were a statute; Judgments of Courts must be read in its entirety, and a single line in a judgment should not be read out of context; even otherwise, the interim order passed by the Learned Single Judge had the effect of allowing the Writ Petition itself, at the stage of admission, even without a counter-affidavit being filed by the appellants herein; and if the respondent-writ petitioners, (who were also among the lessees who had illegally extracted the mineral in areas beyond those leased to them), were permitted to transport the mineral outside their stock-yards, irreparable injury would be caused to the public exchequer; and permitting them to do so would be against larger public interest.

On the other hand Sri E. Manohar, Learned Senior Counsel appearing on behalf of the respondent-writ petitioners, would submit that the respondent-writ-petitioners were granted a license under the A.P. Mineral Dealers Rules; in terms of the license, they were entitled to procure mineral, store them in their stockyard, and transport them outside the leased area; while the 1st respondent may be one of the lessees, they had invoked the jurisdiction of this Court as a dealer under the A.P. Mineral Dealers Rules; any action, which could be taken against them as a license, could only be in accordance with the rules, and not as lessees who are alleged to have illegally quarried the mineral; for

violation of the conditions of the lease by them in their capacity as lessees, no action can be taken against them as a dealer under the A.P. Mineral Dealers Rules; the order of the Division bench merely required the authorities to take an inventory, and thereafter permit the respondent-writ petitioners to deal with the mineral, stored in the stock yards, in accordance with the rules; and, as the respondents-writ petitioners are not alleged to have violated any of the conditions stipulated in the Rules, the Learned Single Judge was justified in granting the interim order which, in effect, is only to implement the order of the Division bench in W.P. No.16069 of 2016 dated 14.07.2016.

Before examining the rival submissions, it is necessary to note, albeit in brief, the facts leading upto the order impugned in W.P. No.26992 of 2016. The Vigilance & Enforcement Department, Rajamahendravaram unit, along with the technical staff of the Mines & Geology Department, measured the Laterite stock, stored in the five stock yards of the respondent-writ petitioner from 09.12.2015 to 15.12.2015. They found deviations in the stock, stored at the yards, with reference to the stock registers maintained by the mineral dealer (i.e the respondent-writ petitioner) and forwarded their report to the Deputy Director, Mines & Geology, for taking necessary action.

W.P.(PIL) No.48 of 2016 was filed in public interest against the Laterite Mining Lease holders in different areas of East Godavari District, seeking a direction from this Court to direct the appellants herein to initiate effective steps for recovery of the mineral revenue in the form of royalty, seigniorage fee and penalty

from respondent Nos.12 to 18 (the lessees); to launch prosecution against respondent Nos.12 to 18 for committing theft of valuable mineral from areas outside their leasehold area; cancellation of all the existing mineral leases, held by respondent Nos.12 to 18, for Laterite Mineral; and to initiate appropriate departmental action against all the officials found to have been colluding with respondent Nos.12 to 18, or found to have failed to discharge their functions. The respondent-writ petitioner herein was the 12th respondent in WP(PIL) No.48 of 2016.

By its order in WP (PIL) No.48 of 2016 dated 27.04.2016, the Division bench directed that mining operations be stopped. Pursuant thereto, the Deputy Director, Mines and Geology, Kakinada, East Godavari District issued memo dated 29.04.2016 directing that the despatch permits issued to the respondent-writ petitioners be taken over, issuing of line permits and transit passes, for despatching Laterite, from the depots of the respondent-writ petitioners be stopped, and the stocks available at the depots/stockyards be taken over. Consequent thereto, the Assistant Director, Mines and Geology, Rajamahendravaram issued proceedings dated 30.04.2016 directing that all the mining leaseholders and mineral dealers should stop mining operations of the nine leases, and transportation of mineral Laterite from the stockyard of the writ petitioner. Questioning the memo issued by the Deputy Director, Mines & Geology, Kakinada dated 29.04.2016, and the consequential letters dated 30.40.2016, issued by the Assistant Director of Mines, requesting various authorities to prevent mining operations and transportation of

mineral from their stock yards, the respondent-writ petitioners filed W.P. No.16089 of 2016.

The Deputy Director, Mines & Geology issued demand notice dated 23.05.2016, directing the respondent-writ petitioner to pay Rs.65,14,342/- towards normal seigniorage fee, Rs.2,60,57,368/- towards the market value of the mineral, and Rs.25,00,000/- as fine as per Rule 26(3)(ii) of the APMMC Rules, totaling to Rs.3,50,71,710/-, within fifteen days from the date of receipt of the notice. Questioning the demand notice issued by the Deputy Director, Mines and Geology dated 23.05.2016, calling upon them to pay a sum in excess of Rs.3.50 crores, the respondent-writ petitioner herein filed W.P.No.18373 of 2016 and, by its order dated 17.06.2016, this Court directed the appellants herein not to take any coercive steps for recovery of the said amount. W.P. No.18373 of 2016 is still pending on the file of this Court.

In its order, in W.P.(PIL)No.48 of 2016 dated 14.07.2016, the Division Bench directed the Director, Mines and Geology to decide, within ten days from the date of the order, whether they would like to issue show-cause notices to respondents Nos.12 to 18 (the 12th respondent therein is the first respondent in this Writ Appeal, and the first petitioner in W.P. No.26992 of 2016), for the alleged illegalities committed by them; if the Director, Mines and Geology decided not to issue any notice, and/or did not issue such notice, it would be open to respondent Nos.12 to 18 to start quarrying operations, on the basis of their mining lease, in accordance with the Andhra Pradesh Minor Mineral Concession Rules, 1966; if show-cause notices were issued, respondent Nos.12 to 18 should

submit their reply thereto within a period of 10 days from the date of the notice; the Director, Mines and Geology should also supply the documents referred to and relied upon for issuing the show-cause notices; he should then proceed to consider and decide the show-cause notices within a period of three weeks, and communicate his decision to respondent Nos.12 to 18 within one week therefrom; he should also grant an opportunity of being heard to respondent Nos.12 to 18, if they so desire; respondent Nos.12 to 18 should express their desire, of being heard, in their reply to the show-cause notice; and till the show-cause notices were decided, respondent Nos.12 to 18 should not carry out any quarrying operations on the basis of the mining lease. The Division Bench made it clear that, if respondent Nos.12 to 18 ultimately succeeded in the proceedings arising from the show-cause notices, the Director, Mines and Geology should compensate the period/time lost in this process starting from the date of the order of the Court till a final order was passed on the show-cause notices, by extending the lease period to that extent.

After W.P. (PIL) No.48 of 2016 was disposed of, the Division Bench also disposed of W.P. No.16089 of 2016 (filed by the respondents in the present Writ Appeal, the petitioners in W.P. No.26992 of 2016, and the 12th respondent in W.P.(PIL) No.48 of 2016) on the very same day i.e. 14.07.2016. By its order, in W.P. No.16089 of 2016 dated 14.07.2016, the Division Bench directed the Assistant Directors, Mines and Geology to take inventory of the minerals stored in the stock yards in the presence of the petitioners, covered by the letters impugned in the Writ Petition, within a period of one week from the date of the order; preserve the

record thereof till the Director, Mines and Geology, Hyderabad took a decision whether to proceed against the petitioners in respect of the alleged illegal excavation of the said stock of minerals; he should, thereafter, allow the petitioners to deal with the said minerals, stored in the stock yards, in accordance with the rules; this, however, would be subject to action, if any, that the respondents proposed to take against the petitioners in respect thereof; and, after completing the exercise of conducting inventory, the concerned authorities may issue transit passes in accordance with the rules. By its order, in W.P.M.P. No.30038 of 2016 in W.P. No.16089 of 2016 dated 22.07.2016, the Division Bench extended the one week period upto 27.07.2016, to comply with its order dated 14.07.2016.

By his report dated 27.07.2016, the Assistant Director, Mines & Geology informed the Director, Mines & Geology that the respondent-writ petitioner had mineral dealers licences at five different places in East Godavari District; the High Court had passed an order dated 27.04.2016 directing them to stop mining and transportation; the Deputy Director, Mines & Geology had directed the Assistant Director to stop mining operations and transportation of Mineral Laterite from the stock yards; in compliance with the said order, they had issued stoppage letters to all the mining leaseholders and mineral dealers to stop mining operations at the nine leases, and not to transport mineral laterite from the stock yards of the respondent; the respondent-writ petitioner had filed W.P. No.16089 of 2016 challenging the notices dated 30.04.2016 issued by them for stoppage of transportation of Laterite in five stock yards; the said Writ Petition was disposed of

by order dated 14.07.2016; he had, thereafter, constituted a survey and inspection team which visited the mineral dealer point, situated at Aralladhara, on 18.07.2016; the team had requested the supervisor to receive the notice and co-operate for measurements and production of records; the Supervisor had refused to provide the records, and to receive the notice; he had insisted that the team wait till the representative of the firm came; the said person came on 18.07.2016, and insisted for measurements of stock through physical weighment; they informed him that the accepted departmental procedure for arriving at the quantities in metric tonnes, followed even in the case of the petitioner at the time of issuing the transit forms/passes, was by measuring the volume of the mineral multiplied by their respective specific gravities; the team had requested him to co-operate; no progress took place, even on that date, on account of non-cooperation; and the representative did not furnish the stock records, registers or transit forms to the Survey & Inspection team; and the inventory was taken thereafter from 18.07.2016 to 23.07.2016, the records were verified, and some deviations were found.

The report of the Assistant Director dated 27.07.2016, records the deviation in each of the stock yards. With regards the Aralladhara stock yard, the report records that 37,371,49 metric tonnes of Laterite, more than the transit permits quantity, was stocked illegally and the mineral dealer (the respondent-writ petitioner) had obtained the mineral illegally from M/s. Aurelia Laterite Mining Pvt. Ltd. without valid transit forms. With regards K. Kothapalli stock yard, the report records that 12,313,32 metric

tonnes of Laterite, more than the transit permit quantity, was stocked illegally; and the mineral dealer (the respondent-writ petitioner herein, and respondent No.12 in W.P. (PIL No.48 of 2016) i.e., M/s. Maheswari Minerals had transferred it from Aralladhara stock yard without valid transit forms/transit passes. With regards Rachapalli stock yard, the report records that 8445.24 metric tonnes of Laterite was transported to other places illegally without valid transit passes, and the mineral dealer (respondent-writ petitioner) had obtained the mineral from their stocks at Aralladhara and K. Kothapalli stock yards, and had transported the mineral to other places misusing the transit passes. With regards Ravikampadu stock yard, the report records that 23,494.68 metric tonnes of Laterite was transported to other places illegally without valid transit passes; the mineral dealer had obtained the mineral from their stocks at Aralladhara, K. Kothapalli and Rachapalli stock yards, and from M/s. Kamakshi Miners & Minerals of Saruguda village; and they had transported the mineral to other places misusing transit passes.

With regards Dowlaiswaram stock yard, the report of the Assistant Director, Mines and Geology records that 2254.32 metric tonnes of Laterite was transported to other places illegally without valid transit passes; the mineral dealer (i.e respondent-writ petitioner) had obtained the mineral from their stocks at Aralladhara, K. Kothapalli and Rachapalli stockyards; and they had transported the mineral to other places misusing transit passes. The said report concludes that the source of mineral laterite, in the subject stockyards, was from the mining leases of the respondent-writ petitioner and M/s. Aurelia Laterite Mining

Pvt. Ltd (another lease holder, and respondent No.16 in WP (PIL) No.48 of 2016). By way of the said report, the Assistant Director submitted determination proposals (termination of the leases) to the Director, Mines & Geology, Hyderabad for the violations committed by these two lease holders which were pointed out by the Vigilance and Enforcement Department; the Director, Mines & Geology issued show cause notices on 20.07.2016 in respect of these leases; the order of the High Court required them to preserve the records after completion of the inventory stocks, till the Director, Mines & Geology took a decision whether to proceed against the respondent-writ petitioners in respect of the alleged illegal excavation of the stock of minerals; and it is only, thereafter, was he required to allow the respondent-writ petitioners to deal with the said minerals, stored in the stock yards, in accordance with law.

While submitting the inventory report of the stock in the yards of the respondent-writ petitioner, the Assistant Director, Mines and Geology, Rajamahendravaram, by his letter dated 27.07.2016, requested the Director, Mines and Geology to issue necessary instructions in the matter. Subsequently, by his letter dated 01.08.2016, the Assistant Director, Mines and Geology informed the respondent - writ petitioner that he had completed inventory of stocks on 27.07.2016, and had submitted his report on the same day to the Director, Mines and Geology, Hyderabad to issue further instructions; the first respondent-writ petitioner had filed a representation dated 30.07.2016 requesting that transit passes be issued, for the quantity mentioned, for immediate despatch from the stock yard; and the respondents-writ petitioners

were being informed that instructions of the Director, Mines and Geology, Hyderabad were awaited in the matter.

The relief sought for in W.P.No.26992 of 2016 was to declare the letter of the Assistant Director, Mines and Geology, Rajamahendravaram dated 01.08.2016, in not issuing transit passes for transportation of the Laterite mineral from the licensed stock yards of the first respondent-writ petitioner, as illegal and void; and to direct the Assistant Director, Mines and Geology to issue transit passes forthwith. Pending disposal of the Writ Petition, the respondent-writ petitioners had sought interim suspension and interim direction as referred to hereinabove.

As noted earlier, in compliance with the order of the Division Bench in W.P. No.16069 of 2016 dated 14.07.2016, the Assistant Director, Mines and Geology caused inventory of the stocks at the respondent-writ petitioner's stock yard. The Director, Mines and Geology issued show-cause notices to all the leaseholders in W.P.(PIL) No.48 of 2016, including the respondent-writ petitioners herein, on 20.07.2016. In his report dated 27.07.2016, the Assistant Director has stated that the stock-yards of the respondent-writ petitioners contain stock of Laterite mineral extracted illegally by them and M/s. Aurelia Laterite Mining Pvt. Ltd.

The order of the Division Bench, in W.P. (PIL) No.48 of 2016 dated 14.07.2016, that no quarrying operations be conducted in the subject leases, till action is taken by the Director, Mines and Geology, is in the larger public interest of safeguarding public revenue, and for taking action in accordance with law to determine

whether the respondent-writ petitioners and other lessees have illegally extracted precious mineral beyond the areas leased to them. The said order is binding on the appellants and respondent-writ petitioners as they are parties thereto. Permitting the respondent-writ petitioners to transport the mineral which, according to the report of the Assistant Director of Mines and Geology dated 27.07.2016, was illegally extracted by them and M/s. Aurelia Laterite Mining Pvt. Ltd, and against whom action has already been initiated by the Director, Mines and Geology, would result in their appropriating the proceeds on the sale of mineral even before it is determined whether the extracted mineral was from within the leased areas or was illegally extracted from outside the leased areas.

Even otherwise the order of the Division Bench, in W.P. No.16089 of 2016 dated 14.07.2016, merely required the appellants herein to issue transit permits in accordance with law. They cannot be faulted for not issuing transit permits as at present, since the right of the respondent-writ petitioners, over the extracted mineral, is being enquired into by the Director, Mines and Geology. The appellants have not issued transit permits, pending enquiry as afore-stated, in the larger public interest of safeguarding the revenues of the State, and to take action against those who are said to have illegally extracted precious minerals belonging to the State. In such circumstances, this Court would refrain from exercising its discretionary jurisdiction, under Article 226 of the Constitution, to interfere, more so at the stage of admission of the Writ Petition. The discretionary jurisdiction, under Article 226 of the Constitution of India, must be exercised

with great caution and only in furtherance of public interest, and not merely on the making out of a legal point. Larger public interest must be kept in mind in order to decide whether the intervention of the Court is called for or not (**Master Marine Services Pvt. Ltd v. Metcalfe and Hodgkinson Pvt Ltd**¹; **Air India Ltd v. Cochin International Air Port Ltd**²; **Rashpal Malhotra v. Mrs. Saya Rajput**³; **Council of Scientific and Industrial Research v. K.G.S. Bhatt**⁴).

It is no doubt true that the respondent-writ petitioner was granted a licence under the A.P. Mineral Dealers Rules which entitled them to procure mineral, store it in their stock yard, and transport it for its sale outside. The fact remains that the respondent-writ petitioner is also one among the lessees (respondent No.12 in WP (PIL) No.48 of 2016) alleged to have illegally extracted mineral from areas beyond their leased areas. The report of the Assistant Director of Mines & Geology dated 27.07.2016 records that the stock of Latrite mineral, lying in the respondent-writ petitioner's stock yards, was procured by them either from their own leases or from Aurelia Laterite Mining Pvt. Ltd (another lessee and respondent No.16 in W.P. (PIL) No.48 of 2016). If, as has been observed in the said report and in the report of the Vigilance and Enforcement Department, the mineral in the subject stockyard was extracted outside the leased areas, then the mineral belongs to the State Government, and none of the lessees have any right over it.

¹ (2005) 6 SCC 138

² (2000) 2 SCC 617

³ AIR 1987 SC 2235

⁴ AIR 1989 SC 1972

The mere fact that the respondent-writ petitioner has invoked the jurisdiction of this Court as a dealer under the Mineral Dealers Rules would not require this Court to ignore either the Vigilance and Enforcement report or the report of the Assistant Director, Mines and Geology wherein it is stated that the mineral extracted by them was from areas outside their leased areas. If, the allegations in the aforesaid reports have any basis, the respondent-writ petitioners cannot claim any right over the mineral, for their right as a dealer over the mineral is dependent on the right of those from whom they procured the mineral. If the appellants contention, that the lessees have no right over the mineral, is found to be true later, the respondent-writ petitioner would then have no right over the mineral even as a dealer or a licensee under the A.P. Mineral Dealers Rules.

Accepting the submission of Sri E. Manohar, Learned Senior Counsel, that we should understand the order of the Division Bench, in W.P. No.16089 of 2016 dated 14.07.2016, to mean that the appellants are obligated to permit the respondent-writ petitioners to transport the mineral from their stock yard to places outside, would require this Court to let them go scot-free, for not only have they questioned the authority of the Director, Mines and Geology in continuing with the enquiry to determine whether they had illegally extracted mineral from areas beyond those leased to them, but they have also contended, in W.P. No.18373 of 2016, that no amount should be recovered from them towards the price of the mineral, royalty and fine in terms of the demand notice issued by the Deputy Director, Mines and Geology dated 23.05.2016. If they are permitted to now transport the mineral

outside their stock-yard, their claim in W.P. No.18373 of 2016 were to be rejected later, all the lessees were to be later held to have illegally extracted the mineral, and to have thereby deprived the State of its legitimate revenues running into several crores of rupees, the only remedy available to the State would then be take recourse to the long drawn process of instituting a civil suit for recovery of these dues.

The order of the Division Bench, in W.P. No.16089 of 2016 dated 14.07.2016, does not lend support to such an understanding. In directing the Director, Mines and Geology to cause an enquiry, and in prohibiting the lessees from operating the mines till then, by its order in W.P. (PIL) No.48 of 2016 dated 14.07.2016, the Division Bench could not have intended the result which would ensue if the submission of Sri E. Manohar, Learned Senior Counsel, were to be accepted. The Division bench cannot be understood to have passed an order permitting the respondent-writ petitioner to enrich themselves at the cost of the State. The interim order under appeal, whereby the principal relief sought for in the Writ Petition, has been granted, is *prima facie* based on a misunderstanding of the order of the Division bench in W.P. No.16089 of 2014 dated 14.07.2014.

The interim order, under challenge in this appeal, requires the appellants herein to forthwith issue transit passes to the respondent-writ petitioners. The said order has the effect of allowing the Writ Petition itself. The main purpose of passing an interim order is to evolve a workable formula or a workable arrangement to the extent called for by the demands of the situation, only in order that no irreparable injury is occasioned.

The Court has to strike a delicate balance after considering the pros and cons of the matter to ensure that larger public interest is not jeopardized thereby. (**Siliguri Municipality v. Amalendu Das**⁵). Interim orders, which practically give the principal relief sought in the writ petition, only for the reason that a prima-facie case has been made out, without considering the balance of convenience, the public interest and other considerations, should not be passed. (**Asstt. CCE v. Dunlop India Ltd.**⁶; **State of Rajasthan v. Swaika Properties**⁷; **Bank of Maharashtra v. Race Shipping & Transport Co. (P) Ltd.**,⁸).

The interim order, under appeal, has the effect of granting the main relief sought for in the Writ Petition, that too at the admission stage even without giving the appellants an opportunity to file their counter-affidavit. Interim orders are, ordinarily, made to maintain the status quo so that the ultimate relief to be granted, to the party approaching the Court, may not become futile. (**Bihar Public Service Commission v. Shiv Jatan Thakur (Dr)**⁹). Interim relief is granted during the pendency of proceeding so that, while granting final relief, the court is not faced with a situation of the relief having become infructuous or that, during the pendency of the proceeding, an unfair advantage has been taken by the party in default or against whom interim relief is sought. The object behind granting interim relief is to maintain the status quo so that the final relief can be appropriately moulded without the party's position being altered during the pendency of the proceedings.

⁵ (1984) 2 SCC 436

⁶ (1985) 1 SCC 260

⁷ (1985) 3 SCC 217

⁸ (1995) 3 SCC 257

⁹ 1994 Supp (3) SCC 220

(Cotton Corporation of India v. United Industrial Bank Ltd.¹⁰).

It is settled legal position that, by way of interim relief, the final relief should not be granted till the matter is decided one way or the other **(Mehul Mahendra Thakkar v. Meena Mehul Thakkar¹¹; All India Anna Dravida Munnetra Kazhagam v. Govt. of T.N.,¹²),** as interlocutory orders are made in aid of final orders and not vice versa. **(Shipping Corporation of India Ltd. v. Machado Brothers¹³; Kavita Trehan v. Balsara Hygiene Products Ltd¹⁴; and Pitta Naveen Kumar v. Raja Narasaiah Zangiti¹⁵).** An interim order should not be of such a nature as to result in the writ petition being finally allowed at an interim stage nor should relief be granted, at the interlocutory stage, by which the final relief, which is asked for and is available at the disposal of the matter, is granted. **(UPSC v. S. Krishna Chaitanya¹⁶).**

The interim order under appeal, also goes beyond the order of the Division Bench in W.P. No.16089 of 2016 dated 14.07.2016 which merely required the Assistant Director to allow the respondent-writ petitioners to deal with the mineral, in the stock-yards, in accordance with the rules. The Division Bench had only observed that the concerned authorities may issue transit passes in accordance with the rules. The interim relief sought for, in WPMP No.33420 of 2016 in W.P. No.26992 of 2016, is not for a direction to the Assistant Director to consider the respondent-writ petitioners' request for issuance of transit permits in accordance with the rules, but to direct the Assistant Director of Mines and

¹⁰ AIR 1983 SC 1272

¹¹ (2009) 14 SCC 48

¹² (2009) 5 SCC 452

¹³ (2004) 11 SCC 168

¹⁴ (1994) 5 SCC 380

¹⁵ (2006) 10 SCC 261

¹⁶ (2011) 14 SCC 227 : (2012) 4 SCC (Civ) 935 : (2012) 2 SCC (L&S) 890

Geology to forthwith issue transit passes to them for transporting the Laterite mineral from its licensed stock-yards. The appellants herein have not been given the opportunity to file their counter-affidavit explaining whether the letter of the Assistant Director dated 01.08.2016, and his failure to forthwith issue transit permits, is in accordance with the rules or not. An interim relief can be granted only in aid of, and as ancillary to, the main relief which may be available to the party on a final determination of his rights. If this be the purpose, to achieve which power to grant temporary relief is conferred, there is no justification that, in cases where the final relief cannot be granted in the terms sought for, a temporary relief of the same nature should have been granted. **(State of Orissa v. Madan Gopal Rungta¹⁷; Cotton Corporation of India¹⁰).**

The interlocutory order under appeal must be, and is accordingly, set aside. The writ appeal is allowed accordingly. Needless to state that the entitlement of the respondent-writ petitioners, to be issued transit permits, shall be examined in the main Writ Petition after a counter-affidavit is filed by the appellants herein (i.e respondents in the Writ Petition), without being influenced by any observations in this order. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

Date: 17.09.2016

Note: L.R.Copy to be marked.

B/o
MRKR/CS

¹⁷ 1952 SCR 28 : AIR 1952 SC 12