

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 517 OF 2006**

1. Mineira Nacional Limitada
with its Office at Salgaoncar
Chambers, P.O. Box No.114,
Margao-Goa.
2. Shri Anil Vassudev Salgaoncar,
Managing Director of the
Petitioner No.1, major, mine
owner, having office at
Salgaoncar Chambers, Margao-Goa
(Registered Addresses) Petitioners

V e r s u s

1. Shri Rajan Ragunath Rao Dessai,
Major, married, residing at
Flat No.1, Ground Floor,
Building No.3, Damodar Housing
Society, Aquem-Alto,
Margao-Goa.
2. Smt. Sangita Rane Sardessai.
3. Shri Udaysingh Rane Sardessai,
Both residing near Power House,
(Electricity Department)
Aquem Alto, Margao-Goa-403 601.
(Registered addresses) Respondents

Mr. A.D. Bhobe, Advocate with Adv. Ms. Carmita D'Costa and Adv. S. Bhobe for the Petitioners.

Mr. S. Usgaonkar, Advocate for Respondent no.1.

Mr. Udaysingh Rane Sardessai, POA of Respondent no.2 present.

CORAM: C. V. BHADANG, J.

DATE: 19th June, 2018.

Oral Order:

Heard Shri Bhobe, the learned counsel for the petitioners.

2. The petitioners have filed a pursis (marked "X" for identification) stating as under:

1. The petitioners state that the petitioners have maintained the record of Sample Analysis from the competent laboratories indicating the moisture content of ROM ore extracted from the subject Cuddegal mine with effect from December 2006 up to May 2011. Extraction of ore was stopped with effect from 2012.

2. As the records of sample analysis from the laboratories for the period from 1 April 1981 up to November 2006 are presently not available with the petitioners, the petitioners will treat ROM WMT (Wet Metric Ton) as shown in the statement of extraction at page 98 of the paper book of this petition as Dry Metric Ton (DMT) only for the above said period i.e. April 1981 up to November 2006, for the purpose of calculation of the amount of Rs.1/- in terms of the decree, passed in Special Civil Suit No.27/69.

3. For the period commencing from the December 2006 till the year 2012, the amount of Rs.1 shall be considered on Dry Metric Ton (DMT) on the basis of the sample

analysis report as obtained and maintained by the petitioners.

3. It is submitted that the petition can be disposed of in the aforesaid terms.

4. I have heard Shri Usgaonkar, the learned counsel for the respondent no.1. I have also heard the respondent no.3, who appears in person. He claims to be the Power of Attorney holder of the respondent no.2 , who is his wife.

5. Shri Usgaonkar the learned counsel for the respondent no.1 as also the respondent no.3, who appears in person have no objection for disposal of the petition in terms as suggested in the pursis marked Exhibit "X". In such circumstances and by consent of parties the petition is disposed of in the following terms:

- (i) The impugned order is hereby set aside.
- (ii) The Executing Court shall recompute the amount payable for the period from April 1981 to November 2006 as per decree passed in Special Civil Suit No.27/1969 by treating the ROM as shown in the statement of Extraction at page 98 as ROM (DMT).
- (iii) In so far as the period from December 2006 to 2012 is concerned the

Executing Court shall recompute the amount on the basis of (DMT) by taking into consideration the sample analysis report produced by the petitioner along with the memo dated 5/8/2016.

(iv) The amount lying before this Court shall be transferred to the Executing Court along with interest, if any, which shall be subject to the further orders as may be passed by the Executing Court.

(v) The petition is disposed of in the aforesaid terms with no order as to costs.

C. V. BHADANG, J.

Ap/-