

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION NO. 672 OF 2022
IN WRIT PETITION NO.7128 OF 2016
(M/s. Ajanta Minerals vs. The State of Maharashtra and another)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri R.L. Khapre, Senior Advocate, assisted by
Adv. P.A. Deshpande, for petitioner.
Shri N.R. Patil, Assistant Government Pleader for
respondent no.1.

CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.

DATED : NOVEMBER 15, 2022

Heard Shri Khapre, learned Senior
Counsel, assisted by Adv. Deshpande, for the
petitioner, and Shri Patil, learned Assistant
Government Pleader for the respondent no.1.

2) Shri Khapre, learned Senior Counsel for
the petitioner, submits that even though liberty has
been granted by the Apex Court to one of the
partners of the petitioner firm to approach the Civil
Court by filing a civil suit for agitating whatever
rights available to him under the partnership deed,
there is a likelihood of the Civil Court encountering
certain difficulties in adjudicating upon all the issues
involved in the suit and, therefore, by entertaining

this review petition, at least one clarification to the effect that in case the issues “(a)” and “(b)” from out of the three issues framed in paragraph (7) of the judgment sought to be reviewed are answered in favour of the petitioner, the Civil Court shall also have the liberty to consider, adjudicate upon and answer the issue “(c)” as framed in paragraph (7) of the judgment.

3) We are not inclined to accept the argument of the learned Senior Counsel for the petitioner for the reason that the judgment sought to be reviewed was challenged by one of the partners of the petitioner firm before the Apex Court by seeking special leave to appeal against it and although the permission to file special leave petition was granted, the Apex Court did not entertain the case of the partner of the petitioner firm any further and permitted him to withdraw the special leave petition with a limited liberty to file a suit against the partnership firm claiming whatever rights that may be available to him under the partnership deed. The permission to withdraw the special leave petition was granted by the Apex Court after noting the fact that the matter was argued by the learned Counsel for the petitioner before it for some time. The liberty granted by the Apex Court is of only limited nature and that is confined to filing of civil suit for

agitating whatever rights the partner Madhukar Sheshrao Kale may have under the partnership deed.

4) This special leave petition, it is noteworthy to mention here, was not filed by the petitioner partnership firm, but by one of the partners of the partnership firm and the liberty that has been granted to him is only in respect of agitating his rights available to him under the partnership deed against the partnership firm. The Apex Court has not granted any liberty to approach this Court for seeking review of the judgment. At this juncture learned Senior Advocate for the petitioner-partnership firm submits that this order passed by the Apex Court in the special leave petition would not come in the way of the partnership firm in filing this review petition. On the face of it, the argument is quite impressive, but we find that the purpose of this review petition is ultimately to obtain some support to the contentions of one of the partners of the firm, who is going to file or who may have filed civil suit in terms of the liberty granted by the Apex Court. Therefore, what cannot be done by the said partner can also not be done by the remaining partners or in other words, by the partnership firm.

5) Besides what has been stated earlier, we are of the view that the prayer made by the learned

Senior Counsel for the petitioner cannot be granted at this stage as it is not known as to in what manner the issues “(a)” and “(b)” framed in paragraph (7) of the judgment sought to be reviewed are going to be decided by the Civil Court.

6) In this view of the matter, we find no substance in the review petition. The review petition stands dismissed. No costs.

JUDGE

JUDGE

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