

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**

**TUESDAY, THE THIRD DAY OF DECEMBER  
TWO THOUSAND AND TWENTY FOUR**

**PRESENT**

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO**

**WRIT APPEAL NO: 1354 OF 2024**

Writ Appeal under clause 15 of the Letters Patent Preferred against the order dt. 06-09-2024, Passed in WP.No.17233 of 2022 on the file of the High Court.

**Between:**

M/s. NCL Industries Limited, (A Company Incorporated under the Companies Act, 1956) Represented by its Authorised Signatory, Sri Ch. Anil Kumar, S/o. Sri. CH. Penchalaiah, Aged. 50 years, 6 and 7th Floors, NCL Pear, S.D. Road, Secunderabad.

**...APPELLANT**

**AND**

1. The State of Telangana, Represented by its Principal Secretary, Industries and Commerce Department, Secretariat, Hyderabad.
2. The Director of Mines and Geology, Government of Telangana, Hyderabad.
3. The Deputy Director of Mines and Geology, Government of Telangana, Hyderabad.
4. The Assistant Director of Mines and Geology, Suryapet, Nalgonda District.
5. Karnati Venkat Reddy, S/o. Gurava Reddy, Aged 31 years, Oce. Advocate, R/o. H.No.2-80, Sarvaram Village, Garidepally Mandal, Nalgonda District.

**As per WA.No.992 of 2023 dt. 13.10.23**

**...RESPONDENTS**

**IA NO: 1 OF 2024**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned Demand Notice dated No.1643/NCL/SRPT/2021 dated

17.03.2022, by restoring the orders passed by this Honorable Court dated 06.04.2022 in IA No.2 of 2022 in WP No.17233 of 2022.

**Counsel for the Appellant: SRI SIVARAJU SRINIVAS, Sr. COUNSEL, REP. FOR SRI VISHWAJEET REDDY.D**

**Counsel for the Respondent No.1 to 4: SRI A.ANANTHASEN REDDY, GP FOR INDUSTRIES & COMMERCE, MINES AND GEOLOGY**

**Counsel for the Respondent No.5: SRI MAHESH MAMINDLA, REP. FOR SRI S.SRINIVASA CHARY**

**The Court delivered the following: JUDGMENT**

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SRI JUSTICE J.SREENIVAS RAO**

**WRIT APPEAL No.1354 of 2024**

**JUDGMENT:** *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Sivaraju Srinivas, learned Senior Counsel representing Mr. Vishwajeet Reddy.D, learned counsel for the appellant.

Mr. A.Ananthasen Reddy, learned Government Pleader for Industries & Commerce, Mines & Geology Department for the respondents No.1 to 4.

Mr. Mahesh Mamindla, learned counsel representing Mr. S.Srinivasa Chary, learned counsel for the respondent No.5.

2. With the consent of learned counsel for the parties, the appeal is heard finally.

3. In this intra court appeal, the appellant has assailed the validity of the order dated 06.09.2024 passed by the learned Single Judge by which the writ petition preferred

by the appellant, namely W.P.No.17233 of 2022, has been dismissed on the ground of availability of an alternative remedy.

4. Facts giving rise to filing of this appeal briefly stated are that the appellant is a company engaged in the business of manufacture of cement and has a factory at Suryapet. The appellant was granted a mining lease in respect of the land measuring 42.82 Hectares in Survey No.540 of Pedaveedu Village, Mattampally Mandal, Suryapet District. The aforesaid lease deed was initially valid for a period up to 2017. However, by G.O.Ms.No.63, dated 23.08.2017, the period of lease was extended for a period of fifty years i.e., up to 28.10.2046.

5. The Assistant Director of Mines and Geology issued a notice dated 09.08.2021 to the appellant informing it that pursuant to the inspection said to have been conducted by the technical staff on 22.07.2021, it has been found that the appellant has erected the boundary pillars around the mining lease area and has opened one huge pit within the leased area and developed two benches for mining

operations and concluded that 15,46,528.5 MT of limestone was excavated from the leased area as against the total dispatch permits obtained by the appellant to the extent of 4,24,350 MT only. The appellant thereupon submitted an explanation. Thereafter, a demand notice dated 17.03.2022 was issued by which the appellant was asked to pay a sum of Rs.91,42,66,220/- towards royalty and sale price evaded to an extent of 16,32,028.205 MT.

6. Being aggrieved, the appellant challenged the aforesaid demand notice in a writ petition. The learned Single Judge of this Court passed an interim order on 06.04.2022 by which the demand notice dated 17.03.2022 has been suspended, subject to the appellant paying 20% of the amount of demand i.e., Rs.91,42,66,220/- within a period of four weeks. The appellant was granted the liberty to make an application before the Director of Mines and Geology for a third party survey. It is not in dispute that in compliance of the aforesaid interim order, the appellant has deposited 20% of the amount of demand in the treasury. Thereafter, the learned Single Judge, by an order

dated 06.09.2024, dismissed the writ petition on the ground of availability of alternative remedy to the appellant under Section 30 of the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as, "the Act"). Hence, this appeal.

7. Learned Senior Counsel for the appellant submitted that in compliance of the interim order dated 06.04.2022 passed by the learned Single Judge, the appellant had paid 20% of the amount of demand and had made a request to the Director of Mines and Geology to carry out the survey by the third party. It is further pointed out that during the pendency of the writ petition, the Assistant Director of Mines and Geology, by a letter dated 24.11.2023, had requested the Director of Mines and Geology for further instructions to do the third party survey in water logged condition of the mining lease area held by the appellant. It is further submitted that the learned Single Judge ought to have appreciated that the aforesaid survey is yet to be conducted and therefore, the appellant could not have been

fastened with the liability to make payment of the amount of demand.

8. On the other hand, learned Government Pleader for the respondents No.1 to 4 has supported the order passed by the learned Single Judge.

9. The learned counsel for the respondent No.5 submitted that the appellant is engaged in illegal mining and the aforesaid illegal mining has to be stopped so that there is no loss to public exchequer. It is further submitted that the survey by a third party be carried out in a time bound manner.

10. We have considered the submissions of both sides and have perused the record.

11. In view of the law laid down by the Supreme Court in **State of Goa v. A.H.Jaffar & Sons**<sup>1</sup>, ordinarily we would have agreed with the conclusion recorded by the learned Single Judge that the appellant should be relegated to the alternative remedy of filing a revision under Section 30 of

---

<sup>1</sup> 1994 Supp (3) SCC 651 : AIR 1995 SC 333

the Act. However, in the peculiar facts of the case, taking into account the fact that the interim order dated 06.04.2022 has been acted upon, it is necessary to issue some directions.

12. The learned Single Judge, by the interim order dated 06.04.2022, directed the appellant to pay 20% of the amount of demand within a period of four weeks and the appellant was also permitted to make a request to the Director of Mines and Geology for the third party survey. In compliance of the aforesaid interim order, the appellant had deposited the 20% of the amount of demand and made an application for the third party survey. The Assistant Director of Mines and Geology thereupon on 24.11.2023 had requested the Director of Mines and Geology for further instructions to do the third party survey in water logged condition of the mining lease area held by the appellant. The aforesaid survey is yet to be conducted. Therefore, the ends of justice would be met to direct the Director of Mines and Geology, Hyderabad, to ensure that the third party survey in respect of the mining lease area



held by the appellant is conducted within an outer limit of two months from today. Based on the result of the survey, the Director of Mines and Geology is further directed to take an appropriate action in accordance with law.

13. To the aforesaid extent, the order passed by the learned Single Judge is modified.

14. In the result, the appeal is disposed of. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

**SD/-R. KARTHIKEYAN  
DEPUTY REGISTRAR**

**//TRUE COPY//**

**SECTION OFFICER**

To,

1. The Principal Secretary, Industries and Commerce Department, Secretariat, Hyderabad, State of Telangana.
2. The Director of Mines and Geology, Government of Telangana, Hyderabad.
3. The Deputy Director of Mines and Geology, Government of Telangana, Hyderabad.
4. The Assistant Director of Mines and Geology, Suryapet, Nalgonda District.
5. One CC to SRI VISHWAJEET REDDY.D, Advocate [OPUC]
6. One CC to SRI S.SRINIVASA CHARY, Advocate [OPUC]
7. Two CCs to GP FOR INDUSTRIES & COMMERCE, MINES AND GEOLOGY, High Court for the State of Telangana at Hyderabad [OUT]
8. Two CD Copies

BSR  
BS



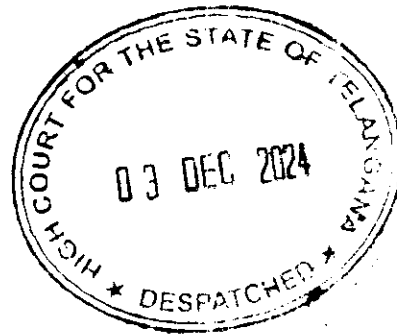
CC TODAY

HIGH COURT

DATED: 03/12/2024

JUDGMENT

WA.No.1354 of 2024



DISPOSING OF THE WRIT APPEAL,  
WITHOUT COSTS

11  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
03/12/2024