

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

+ LPA Nos.205 & 206/2008

%Date of Decision: 30.04.2008

M/s Tiffins Barytes Asbestos & Paints Ltd. ...Appellant
Through: Mr. N.K. Kaul, Senior Advocate with
Ms. Shoba Nagarajan, Mr. Sri Ram J.
Thalapathy & Mr. V. Adhimoolan.

Versus

Union of India & Anr. ...Respondent
Through: Mr. Suresh Kait, Advocate with
Mr. Abhishek Verma, Advocate.

CORAM :-

THE HON'BLE MR.JUSTICE A.K.SIKRI
THE HON'BLE MR. JUSTICE J.R. MIDHA

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?

J.R. MIDHA, J.

1. These appeals arise out the judgments dated 7th January 2008 passed by the learned Single Judge whereby the learned Single Judge has dismissed both the Writ Petitions.
2. The brief relevant facts of these cases are as under:-

LPA 205/2008

- 2.1 In 1934, the appellant was granted a mining lease over an area of 55.51 acres of land in Village Vemula, Cuddapah District, Andhra Pradesh for a period of 20 years.

- 2.2 On 22nd September 1961, respondent no. 2 renewed the aforesaid lease for a further period of 20 years.
- 2.3 On 20th March 1978, the appellant applied for renewal of lease for a further period of 20 years. The said application culminated in a order of remand by respondent no. 1 to respondent no. 2.
- 2.4 On 10th May 1983, respondent no.2 granted the second renewal limited to the extent of 12.43 acres to the appellant. The renewal application was rejected in respect of the remaining area on the ground that the appellant has not been working all mines to the full capacity and its performance in the field of exploration and exploitation was unsatisfactory.
- 2.5 The appellant preferred a revision against the aforesaid order dated 10th May 1983 before respondent no. 1 which was dismissed vide order dated 14th August 1984.
- 2.6 The appellant filed Writ Petition bearing no. 2356/1990 challenging the order dated 14th August 1984 passed by respondent no.1 which was dismissed by the learned Single Judge vide impugned order dated 7th January 2008.

LPA 206/2008

- 2.7 In 1941, the appellant was granted mining lease in respect of 79.42 acres of land in Village Vemula, Cuddapah District, Andhra Pradesh for a period of 20 years from 1941 to 1961.

- 2.8 On 22nd September 1961, respondent no.2 renewed the lease for a further period of 20 years from 1st July 1961 to 30th June 1981.
- 2.9 On 21st May 1980, the appellant applied for renewal of lease for a further period of 20 years to respondent no.2. The said application culminated in a order of remand by respondent no. 1 to respondent no. 2.
- 2.10 On 25th March 1983, respondent no. 2 rejected the application for renewal of mining lease to the appellant.
- 2.11 The appellant preferred the revision against order dated 25th March 1983 before respondent no.1. The revision petition was dismissed by respondent no.1 vide order dated 28th September 1984.
- 2.12 The appellant filed Writ Petition bearing no. WP(C) No. 2018/1985 which was dismissed vide order dated 7th January 2008 by the learned Single Judge.
- 2.13 The aforesaid Writ Petitions were contested by the respondents on the ground that the mines were under-exploited and that the performance of the appellants was not satisfactory. The respondents appear to have relied upon the report of Indian Bureau of Mines.

3. We have heard Mr. N.K. Kaul, learned Senior Counsel for the appellants at length and have examined the contentions raised by the appellant. We do not find any merit in the appeal. The learned Single Judge has well considered the rival contentions of the parties. We agree with the findings of the learned Single Judge and dismiss the appeals. The reasons for our decision are as under:-

3.1 The State Government rejected the appellant's application for renewal on the ground that the mines were under-exploited and that the performance of the appellants was not satisfactory. The appellants filed the statutory revisions before respondent no.1 which were dismissed vide orders dated 14th August 1984 and 28th September 1984 respectively. The appellants challenged the orders in revision by Writ Petition, which have been dismissed on the ground that the petition did not disclose any illegality, irregularity or lack of bonafides by the authorities below. The learned Single Judge has rightly held in para 25 of the judgment that the considerations which weighed with the State in refusing the lease, for the entire area, and upheld in revision, were germane and relevant; they cannot be declared as illegal or manifestly unreasonable, on an application of judicial review parameters. The Writ Court cannot substitute the view formed by respondent no.2 as to

the performance of the appellant. There is no infirmity in the finding of the learned Single Judge.

- 3.2 The appellants have strongly argued that the copy of the report of Indian Bureau of Mining has not been furnished to them. The appellants were well aware of the two grounds of rejection namely, that the mines were under-exploited and the performance of the appellant was not satisfactory. The appellants, therefore, had sufficient notice and opportunity to contest the same. The learned Single Judge has rightly rejected this submission in its judgment.
- 3.3 The mining lease was granted to the appellants initially for a period of 20 years from 1941 to 1961 which was renewed for a further period of 20 years from 1961-1981. The dispute is for a second renewal for a further period of 20 years from 1981-2001. This period of dispute has already expired and therefore, no relief can be given to the appellant. The difference between the lease amount in 1981 and at present would also be very high.
- 3.4 In the case of LPA No. 205/2008, the Writ Petition bearing no. WP(C) No. 2356/1990 was filed by the appellant against the order dated 14th August 1984. There is unexplained delay of six years in the appellant approaching the Court and therefore, the learned Single Judge has rightly given the finding that the petition was hit by doctrine of lapses.

4. In view of the above, we uphold the order of the learned Single Judge and dismiss the appeals without costs. We have been informed that on account of the pending litigation, respondent no.2 has not given fresh lease to any person in respect of the mines in question and the mines are lying unexploited since 1981. Respondent no.2 can now grant fresh lease on fresh terms in accordance with law. Needless to say that appellants can also apply for fresh lease and shall be considered on merits.

(J.R. MIDHA)
JUDGE

(A.K. SIKRI)
JUDGE

April 30, 2008
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