

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL SOUTH ZONE
CHENNAI.

O.A. No. 251 Of 2014 (SZ).

In The Matter Of :-

U.District Consumers & Citizen Welfare Association Rep. By Its President
Applicant.

Versus.

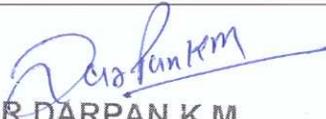
State Of Karnataka Rep. By Its Chief Secretary Department Of Ecology
Environment & Forests & Others.
....Respondents.

Next Date. 03/02/2022.

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THROUGH


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9968638862 .

Date:- 25/01/2022.
Place New Delhi

1

COMPLIANCE REPORT WITH RESPECT TO THE ORDER OF THE HON'BLE NATIONAL GREEN TRIBUNAL CHENNAI IN ORIGINAL APPLICATION NO 251 OF 2014 DATED 21-12-2021 SUBMITTED BY RESPONDENT NO. 11 DIRECTOR OF PORTS & IWT KARWAR AND RESPONDENT NO. 12 PORT OFFICER KARWAR.

1. This is to bring to the notice of the Hon'ble National Green Tribunal that, the order of the tribunal in Original Application No 251 OF 2014 Dated: 05-12-2016 is neither served / communicated in any form by the respondents nor by the Karnataka State Pollution Control Board (KSPCB) to the Port Department or Respondent No 11 Director of Ports & IWT Karwar and Respondent No 12 Port Officer Karwar.
 2. It is respectfully submitted that, Karnataka State Pollution Control Board has not taken the opinion of the port department prior to submitting of the scheme / recommendations to the Hon'ble National Green Tribunal Chennai regarding disposal of iron ore stacked at Karwar and Belekeri port to avoid Air and Water pollution. Earlier, no communication in any form is received to the port department by the KSPCB in the matter.
 3. It is submitted that, KSPCB wrongly submitted to the Hon'ble National Green Tribunal Chennai that, these iron ores were admittedly confiscated by the Respondent No.12 Port Officer Karwar. The true fact is that the iron ore heaps have been alleged to be seized/ confiscated by the Forest Department not by the Port Department.
 4. It is respectfully submitted that, alleged seizure of iron ore is done by Forest Department at Karwar & Belekari Port and it is confirmed that the Forest Department already initiated the actions for disposal of iron ore at Karwar & Belekeri and it is under the perusal of jurisdictional JMFC courts of Karwar & Ankola Taluku Uttara Kannada District.
-
5. Belekeri and Karwar ports are minor ports owned and administered by the Government of Karnataka.

6. It is submitted that the case regarding alleged seizure, handing over of iron ore was first investigated by CID Bengaluru and subsequently seizure, handing over and its export was investigated by CBI, Bengaluru as per the direction of Hon'ble Supreme Court of India in September 2012. CBI Bengaluru investigated the case and filed charge sheets before Hon'ble CBI court Bengaluru. Cases are at different stages of hearing. The entire matter is Sub-Judice and Port Department is not in a Position to offer any comment in the matter.

7. It is respectfully submitted that, after great pursuance by the Port Department, the Government of Karnataka has appointed Sri Ashok Naik, retired public prosecutor, Mangalore as a special prosecutor for filing applications seeking permission of the Hon'ble Court for the disposal of iron ore heaps in jurisdictional courts JMFC Ankola for the Disposal of Iron Ore heaps lying in Belekeri Port and in JMFC Karwar for Disposal of Iron Ore heaps lying at Karwar Port. (True Copy Government Order On Dated 23.12.2019 is marked and produced as **Annexure R-1**) Accordingly, Special Public Prosecutor on behalf of the forest department filed the applications before the respective jurisdictional courts for seeking permission to disposal of iron ore.

8. It is further submitted that as regards to the disposal of iron ore from Karwar Port, JMFC Court Karwar Permitted for Disposal of Iron Ore Laying at Karwar Port in Forest Crime No 6/2009-10 on 02.03.2020 subject to various conditions. (True Copy Of Order Dated 02/03/2020 In Forest Crime No. 06/2009-10 Passed By The Hon'ble Court JMFC, 2nd Karwar is marked and produced as **Annexure R-2**) Measurement of quality and quantity of Iron Ore heaps was done by the Mines & Geology Department on 26th & 27th June 2020 in presence all stake holders. Director of Mines & Geology has written letter to the Chairman, E-Auction Monitoring Committee, Bangalore for Conducting E- Auction as per the Court Order Dated:16.01.2021. Govt special advocate filed the application before JMFC court, stating that, monitoring committee on 29.05.2021 informed that said committee is not authorized to conduct E-auction. Hence, request to take action was made by Mines

and Geology Department, Karwar on 02.08.2021 seeking direction from the Court for disposal of iron ore heaps.

9. It is respectfully further submitted that the JMFC Court, Karwar ordered on 09.09.2021 that the seized iron ore shall be disposed of through District Task Force Committee in accordance with terms and conditions of order of the Hon'ble Court's order dated 02.03.2021. True Copy Of Order Dated 09.09.2021 In Forest Crime No. 06/2009-10 passed by the Hon'ble Court of the Prl. Civil Judge & JMFC Uk- Karwar is marked and produced as **Annexure R -3)**

District Task Force Committee meeting was held twice and the Mines and Geology Department was directed to proceed with the E-Auction under the Supervision of District Task Force Committee headed by the Deputy Commissioner, Uttara Kannada, Karwar.

The Mines and Geology Department signed agreement with MSTDC on 20.12.2021 and action already initiated by MSTDC for e-auction within 2 months it is expected to complete the disposal of iron ore at Karwar Port.

10. It is further submitted that, as regards to the disposal of iron ore from Belekeri Port, the JMFC Court Ankola in FOREST CRIME No. 17/2009-10 dated:05.10.2020, has rejected the plea of the Forest Department for the disposal of iron ore laying at Belekeri Port. True Copy of Order dated 05.10.2020 in Ankola Forest Crime No. 17/2009-10 passed by the Hon'ble Court of the Senior Civil Judge & JMFC, Ankola is marked and produced as **Annexure R-4)**

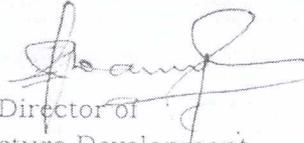
The forest department filed the appeal in Hon'ble Additional District & Sessions Court, Karwar against the order issued by JMFC Court Ankola in CRL.R P No. 02/2021(No. 738/ 2021) on 16.01.2021.

The Hon'ble Additional District & Sessions court, Karwar rejected the application filed by the forest department seeking the permission for auction of iron ore on 20.11.2021. True Copy of Order dated 20.11.2021 in Crl. R.P. No. 02/2021 passed by the Hon'ble Court of the II Addl.

4

District & Sessions Judge, Kannada Karwar is marked and produced as
Annexure R-5)

It is submitted to the Hon'ble Tribunal that, actions are being taken by Forest Department and Department of Mines and Geology with respect to disposal of Iron ore lying at Karwar and Belekeri ports. No action is required by Port Department.



Director of
Infrastructure Development,
Ports & Inland Water Transport
Karwar.

Through



Darpan KM
Advocate for Respondent No. 11
and Respondent No. 12

Date: 25.01.2022

Annexure-R-1

ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಸಂಖ್ಯೆ: ಬ.ರ. 191 ಏಪಿಇ 2019

ಕರ್ನಾಟಕ ಸರ್ಕಾರ ಸಚಿವಾಲಯ
ವಿಧಾನಸೌಧ,
ಬೆಂಗಳೂರು. ದಿನಾಂಕ: 23.12.2019

L.V.M.
ಶ್ರೀ.ಸೂಚನೆ

ಶ್ರೀ ಅಶೋಕ್ ಎನ್. ನಾಯ್ಕ, ನಿವೃತ್ತ ಸಾರ್ವಜನಿಕ ಅಭಿಯೋಜಕರು, ಮಂಗಳೂರು ಇವರನ್ನು ದಂಡ ಪ್ರಕ್ರಿಯಾ ಸಂಹಿತೆ 1975ರ ಕಲಂ:24ರ ಉಪಕಲಂ (8)ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸುತ್ತಾ, (ಕೇಂದ್ರ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ: 2/1974) ದಂಡ ಪ್ರಕ್ರಿಯಾ ಸಂಹಿತೆಯು ತಿದ್ದುಪಡಿಯಾದಂತೆ, (1978ರ ತಿದ್ದುಪಡಿ ಅಧಿನಿಯಮ) ಜೆ.ಎಂ.ಎಫ್.ಸಿ. ನ್ಯಾಯಾಲಯ, ಅಂಕೋಲ ಮತ್ತು ಜೆ.ಎಂ.ಎಫ್.ಸಿ. ನ್ಯಾಯಾಲಯ, ಕಾರವಾರ ಇಲ್ಲಿ ಪ್ರಕರಣ ದಾಖಲಿಸಲು ಹಾಗೂ ಸರ್ಕಾರದ ಪರವಾಗಿ ವಾದ ಮಂಡಿಸಲು ವಿಶೇಷ ಸರ್ಕಾರಿ ಅಭಿಯೋಜಕರನ್ನಾಗಿ ಮುಂದಿನ ಆದೇಶದವರೆಗೆ ನೇಮಿಸಲಾಗಿದೆ.

ಆವರಿಗೆ ನೀಡಬೇಕಾದ ಸಂಭಾವನೆ ಹಾಗೂ ಇತರ ಷರತ್ತುಗಳ ಬಗ್ಗೆ ಪ್ರತ್ಯೇಕ ಆದೇಶ ಹೊರಡಿಸಲಾಗುವುದು.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಹೆಚ್.ಎಂ. ರಾಘವೇಂದ್ರ)

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ.

(ಪೂರ್ವೀಕ ಸೇವೆಗಳು-ಬಿ) ಒಳಾಡಳಿತ ಇಲಾಖೆ
23/12/19

ಇವರಿಗೆ:

1. ನಿರ್ದೇಶಕರು, ಅಭಿಯೋಗ ಮತ್ತು ಸರ್ಕಾರಿ ವ್ಯಾಜ್ಯಗಳ ಇಲಾಖೆ, ಕಾವೇರಿ ಭವನ, ಬೆಂಗಳೂರು.
2. ಅಧ್ಯಕ್ಷಾಧಿಕಾರಿಗಳು, ಜೆ.ಎಂ.ಎಫ್.ಸಿ. ನ್ಯಾಯಾಲಯ, ಅಂಕೋಲ ಮತ್ತು ಜೆ.ಎಂ.ಎಫ್.ಸಿ. ನ್ಯಾಯಾಲಯ, ಕಾರವಾರ
3. ಶ್ರೀ ಅಶೋಕ್ ಎನ್. ನಾಯ್ಕ, ನಿವೃತ್ತ ಸಾರ್ವಜನಿಕ ಅಭಿಯೋಜಕರು, ಮಂಗಳೂರು
4. ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ, ಆರಣ್ಯ, ಪರಿಸರ ಮತ್ತು ಜೀವಶಾಸ್ತ್ರ ಇಲಾಖೆ (ಆರಣ್ಯ-ಸಿ).
5. ಶಾಖಾ ರಕ್ಷಾ ಕಡತ ಮತ್ತು ಜಿಡಿ ಪ್ರತಿ.

ಪ್ರತಿಗಳು ಮಾಹಿತಿಗಾಗಿ:

1. ಸರ್ಕಾರದ ಆಹರ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿಯವರ ಆಪ್ತ ಕಾರ್ಯದರ್ಶಿಗಳು, ಆರಣ್ಯ, ಪರಿಸರ ಮತ್ತು ಜೀವಶಾಸ್ತ್ರ ಇಲಾಖೆ, ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ.

← True Copy →
✓

4- Translation Copy "

Ammeuzae R-1 6

GOVERNMENT OF KARNATAKA

No. OE 191 PPE 2019

Karnataka Government Secretariat

Vidhana Soudha

Bangalore, dated: 23.12.2019.

NOTIFICATION

Sri Ashok N. Naik, Retired Public Prosecutor, Mangalore has been appointed as Special Government. Prosecutor in exercise of the powers conferred under Sub Article 8 of Article 24 of Civil Procedure Code 1975 (Central Act No. 2/1974) Procedure Code Amendment (1978 Amendment Act) to file suite and represent and prosecute the case on behalf of the State in J.M.F.C. Court Ankola and J.M.F.C. Court Karwar until further orders.

Separate order will be issued regarding other terms and conditions and remuneration required to be paid.

By Order and in the name of the
Governor of Karnataka

Sd/-

Under Secretary to Government
(Police Service-B) Home Department.

4- True Copy "

IN THE COURT OF THE J.M.F.C., 2nd COURT, KARWAR
AT: KARWAR

Annexure - B-2 7

PRESENT: Sri. Vivek Gramopadhye,
B.S.L.L.L.B.
J.M.F.C., Karwar

Forest Crime No. 6/2009-10

DATED: THIS THE 2nd DAY OF MARCH 2020

Petitioner/
Complainant :

State of Karnataka

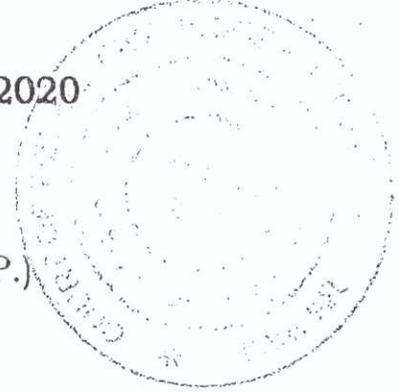
(By Special P.P.)

Vs.

Respondent/
Accused :

Port Officer Karwar and others

(By Sri. P.G.P., Adv)



ORDERS ON APPLICATION
UNDER SECTION 457 OF CR.P.C.

The learned Special Public Prosecutor has filed application under section 457 of Cr.P.C., seeking for interim release and disposal of the seized iron ore.

2. In the application, it is stated that the FIR No.6/09-10 was registered against Port Officer for illegal stock of iron ore in huge quantity and on 20th March 2010 it was reported that 50000 M.Tons of iron ore which is illegally stocked in Karwar port was seized and safe custody was handed over port officer, Karwar. It is further stated that accordingly seizure report was

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Fee Stamps of Rs. 157/-
is Paid.

Examiner

submitted to the court on 20th March 2010. It is further stated that during the investigation the investigating officer found that the port officer himself allowed the property seized for export. It is further stated that on 31/5/2010 the Port officer Karwar furnished information to the investigating officer that the quantity of iron ore as on 20th March 2010 was 1,15,399.600 M.Ton based on the particulars given by the stevedores and parties and the same was brought to the notice of this court. It is further stated that no stock registers were produced and only on the basis of the letter by the parties and stevedores said information was given.

3. It is further stated that during further investigation it was found that 27,000 cubic meter of iron ore illegally stocked was seized under the Mahazar and custody of the same was handed over to R.F.O., Karwar and seizure report was submitted to the court on 16/02/2011, which was permitted to be retained till further orders.

4. It is further stated that the parties to the proceeding filed W.P. No. 44879/2016 before the Hon'ble High Court of Karnataka which dismissed the writ petition on 30th August 2016 directing the parties to approach this court. It is further stated that the government of Karnataka ordered C.I.D. investigation in the crime bearing No.154/2010 and 'B' report was filed by the C.I.D. It is further stated that on 26/08/2011

Whomera
21/3/2020

application under section 457 of Cr.P.C, was filed by the investigating officer and the same is still pending for consideration which can be read as part and parcel of the application.

5. It is further stated that the Karwar port is a minor port and the government of Karnataka is keen in developing the said port for commercial operation and the shipping activities are obstructed because of the several heaps of iron ore lying in port area which is causing heavy revenue loss of several crores of rupees per annum to the Government. It is further stated that the significant amount is being spent by R.F.O., Karwar for protection of iron ore heaps by covering it by a tarpaulin for the last 9 years. It is further stated that the iron ore seized about 9 years back is exposed to weathering, wind and heavy rains and the quality of the iron ore is also diminishing. It is further stated that the government of Karnataka is duty bound to clear port area and make it pollution free.

6. It is further stated that though iron ore seized belongs to government as it is forest produce if any party is interested in claiming said property, parties can stake their claim only on the basis of existence and ownership basis as per the direction of Hon'ble Apex Court. Therefore, he seeks for release of the available iron ore seized under the interim custody of the government of Karnataka with a direction to conduct e-auction

Varun Padhe
21/3/2020



through e-tender under the supervision of the monitoring committee constituted by the Hon'ble Apex Court and to deposit the amount in this court and further direction to deposit it in Nationalized Bank. .

7. On filing of the application, the applicant was allowed to serve the copies of application on interested parties and accordingly notice was served upon all the interested parties as can be seen on perusal of the memo filed by the learned advocate for the applicant i.e Government of Karnataka. M/s Rajmahal Silks, the accused No.1, Shri. Venkateshwar Transport, M/s. SSTA Logistic private Ltd., have submitted their objections and rest of the parties have remained absent.

8. The port officer who is arrayed as accused No.1 in this case has submitted his objection, stating that against registration of FIR he has preferred criminal petition No.2020/2010 and the said writ petition was dismissed as premature. It is further stated that till date even after lapse of more than 10 years the charge-sheet is not filed in this case and now the government is seeking for release and disposal of the iron ore laying in the port land pending trial. It is further stated that the investigation report may reveal the name of the officer who facilitated the illegal extraction of iron ore and its transportation to the other countries along with the parties

W. Anandh
21/3/2020

who extracted and transported the iron ore and therefore till final report of the case is filed, the I.A. filed seeking for disposal of the iron ore cannot be allowed. It is further stated that if the seized iron ore is released or disposed off, the investigation may be delayed further for several years and the very purpose of dismissal of the criminal petition No.2020/2010 will fail and hence, he seeks for dismissal of the application.

9. M/s Rajmahal Silks has filed objection to the application stating that by suppressing material facts the state has filed this application under section 457 of Cr.P.C., and it is stated that the objector had filed application before this court seeking for release of the iron ore and the said application was dismissed and being aggrieved by the said order the applicant preferred writ petition before Hon'ble High Court of Karnataka bearing No. 103271/2017 and as per the report of the Dy. Director of Mines and Geology dt: 06/07/2017 the quantity of iron ore measuring 16865 M.Ton was reported to be belonging to the applicant and accordingly interim order was passed by the Hon'ble High Court releasing iron ore to the interim custody of the applicant on 12/07/2017. It is further stated that the State is party to the W.P.No.103271/2017, but nothing is mentioned with respect to the said Writ petition in the application and therefore the.



W. No. 103271/2017
12/3/2020

application filed by suppressing material facts deserves to be dismissed.

10. M/s SSTA Logistic Private Ltd., and Shri Venkateshwar Transport has filed their separate objections and in their objections common ground is taken that the application filed by the objector came to be dismissed by this court by order dt: 15/07/2017 and the iron ore of the objector with proper legal documents are lying in the port and the documents submitted to the forest officials are also in their custody and in spite of the same the iron ore of which the objector is the owner is not released in their favour. It is further stated that the application filed at this stage by the government of Karnataka is unjust, improper and without lawful authority and the same deserves to be dismissed. It is further stated that before any orders are passed the exact quantity and the grade of the iron ore belonging to the objector has to be separately measured and gradation of the iron ore has to be done and the government has to permit the firm to transport and export the material owned by the firm or obtain under the e-auction and also directing forest officials to hand over document claiming ownership and submitted by the firm during investigation and hence, they seek for dismissal of the application.

W. Ramachandran
2/3/2020

11. Heard the learned Special P.P., and the learned advocate for the objectors and perused the records.

12. The following points arise for my consideration :-

- 1) Whether the I.A. under section 457 of Cr.P.C., seeking for interim custody and disposal of the iron ore by the government deserves to be allowed?
- 2) What order?

13. My answers to the above point NO.1 is "Partly in the affirmative" and point No.2 as per final order for the following,

:- REASONS :-

14. Point No.1 :-

The learned Special P.P. submits that due to the iron ore being dumped in the port for years together the port activity is being hindered and it is causing major environmental problem and also maintenance of iron ore dumped in the port is creating a major problem for the forest department officials as well as port officials and the government of Karnataka at present is not claiming for interim custody of the iron ore on the basis of the ownership, but it is seeking for disposal of the iron ore by e-auction through "Monitoring committee" appointed by the Hon'ble Apex Court and deposit of the amount to this court which shall in-turn be deposit the same in a nationalized bank, thereby earning interest also and the interested party if can establish their ownership they can seek for release of the amount deposited in the court as per their



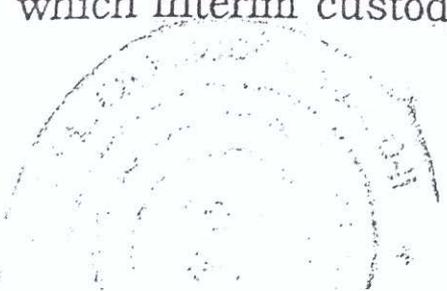
W. S. Rao
21/3/2020

ownership. Further he submits that the heaps will be individually measured and panchanama will be drawn and individual samples will be taken and the gradation shall be done and e-auction can be conducted and entire process will be videographed and therefore no harm will be caused to any interested parties and hence, seeks for allowing of the application.

15. He draws my attention to 3 seizure reports as well as the order of Government of Karnataka handing over the investigation to CID and he also relies upon the judgment of Hon'ble Apex Court in the case of **State of Karnataka Vs. Vedant LTD.**, reported in 2018 (5) SCC page 722 and also the interim order passed by the Hon'ble High Court of Karnataka in the case of **Samaj Parivartana Samudaya and others, Vs. State of Karnataka** in W.P.No.562/2009 by the Hon'ble Apex court and prays for allowing of the application.

16. On the other hand the learned advocate for M/s Rajmahal Silks submits that in W.P.No.103271/2017 interim custody of the iron ore to the extent of 16865 M.Ton is given to the M/s Rajmahal Silks and with respect to the same interim custody for disposal of the iron ore cannot be given to State of Karnataka and hence, he seeks for dismissal of the application.

with respect to the iron ore belonging to M/s Rajmahal silks of which interim custody is handed over to it as per the order of

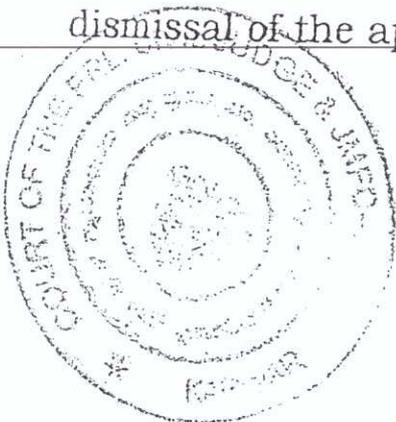


V. Ramachandran
21/3/2020

Hon'ble High Court of Karnataka to the extent of 16865 M. Tons.

17. In support of his contention he draws my attention to the copy of the order-sheet in W.P.No. 103271/2017 before the Hon'ble High Court of Karnataka and order dt: 12/07/2017. Further he draws my attention to the copy of the order of the Hon'ble High Court of Karnataka dt: 27/04/2017 in W.P.No. 103271/2017. Further he draws my attention to the copy of the memo along with letter dt: 06/07/2017 issued by the Dy. Director of Mines and Geology of Karwar, specifying the quantity of iron ore belonging to Rajmahal silks. Further he draws my attention the copy of the 'B' report filed by police before the Hon'ble CJM, Karwar, and seeks for dismissal of the application to the extent of 16865 M.Tons of iron ore which is the quantity as belongs to M/s Rajmahal Silks.

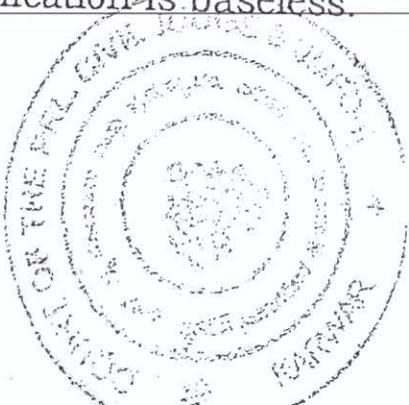
18. The learned advocate for M/s S.S.T.A. Logistic and Shri Venkateshwar Transport submits that the iron ore belongs to objector and the government has no right of selling the iron ore belonging to the objectors and in spite of submitting the relevant documents the iron ore is not released in favour of the objector by the forest officials and if the gradation is not done with respect to each of the iron ore heap the objectors will be put to loss and hence, he seeks for dismissal of the application.



Dr. Annapurna
21/3/2020

19. At the outset it is relevant here to note that at present State of Karnataka is not seeking for release of the iron ore and disposal of the same through monitoring committee constituted by Hon'ble Apex Court on the basis of ownership. The basis on which the State of Karnataka has sought for interim custody and sale of the iron ore by e-auction under the supervision of monitoring committee appointed by the Hon'ble Apex Court is the erosion in the quantity as well as quality of the iron ore stored due to lapse of time as well as the huge expenses involved in the maintenance of the said iron ore heaps and the pollution caused by the same. Admittedly more than 10 years have elapsed since the iron ore is seized and keeping in view the expenses involved in the maintenance of said heaps of iron ore the application is filed.

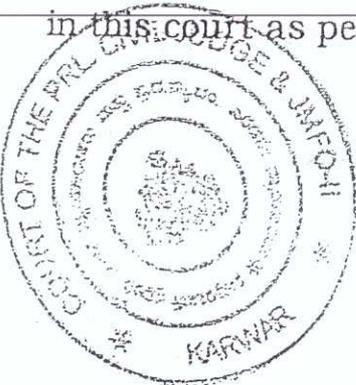
20. As far as the objections of the port officer/ accused No.1 is concerned it is relevant here to note that if the e-auction is conducted it will be done by following due process by drawing up of panchanama, videograph of the entire process and photographs of the heaps of the iron ore will be taken and therefore the apprehension of the port officer/ accused No.1 with respect to delay in the investigation and submission of the charges-sheet by virtue allowing of the said application is baseless.



W. S. S. S. S.
21/3/2020

21. As far as objections of the M/s Rajmahal Silks is concerned, it is relevant here to note that the Hon'ble High Court of Karnataka in W.P. NO.103271/2017 by order dt: 12/07/2017 has given interim custody of iron ore of which M/s Rajmahal Silks is claiming to be the owner of to the extent of 16865 M.Tons and in view of the order passed by the Hon'ble High Court of Karnataka giving interim custody of the said quantum to the M/s Rajamahal Silks, the application of State of Karnataka to the extent of 16865 Metric Ton identified as belonging to Rajmahal Silks deserves to be dismissed.

22. As far as apprehension of M/s SSTA Logistic Pvt. Ltd, and that of Venkateshwar Transport is concerned, it is relevant here to note that the applications filed by said objectors seeking for interim custody of the iron ore is dismissed by order dt: 15/07/2017 by this court and there is nothing available on record to show that the said order is challenged by the objectors. Moreover as noted earlier the government at present is not seeking for the interim custody and disposal of the iron ore on the basis of ownership and if the objector i.e, M/s SSTA Logistic and Shri. Venkateshwar Transport is able to establish their ownership over the quantity of iron ore to which they are claiming ownership they can seek for the appropriate amount which shall be deposited in this court as per the e-auction conducted by the monitoring



U. Ramachandran
2/3/2020

committee appointed by the Hon'ble Apex Court. Moreover it is relevant here to note that as far as the quality of iron ore which shall be e-auctioned the same shall be separately graded and separate panchanama shall be conducted and hence, the said apprehension of the objectors can also be met with. As far as the documents which are allegedly in the custody of the forest officials is concerned, the same does not come under the purview of section 457 of Cr.P.C., and it comes under the purview of investigation and the same cannot be directed while considering this application. With the above observations the objections raised by the M/s SSTA Logistic Pvt., Ltd, and Shri Venkateshwar Transport is baseless.

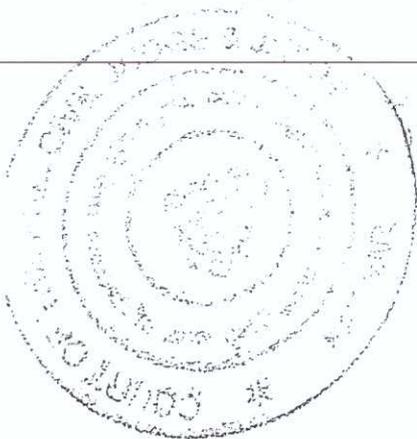
18. In view of the discussion made above, I am of the opinion that the application filed by the State of Karnataka seeking for interim custody and disposal of the iron ore under section 457 of Cr.P.C., deserves to be allowed in part and hence, I answer point No.1 partly in the affirmative in favour of the applicant.

23. Point No.2 :- In view of the above discussions, I proceed to pass the following

:- ORDER :-

I.A. filed under section 457 of Cr.P.C., by the Special P.P., seeking for interim custody and disposal of the iron

Champrajit
21/3/2020



and time at which the measurement, quantity, quantity and samples shall be done.

- 4) The entire process of measuring the quality and quantity of each of the iron ore heaps and taking samples of the iron ore shall be covered by videograph and the said C.D. containing said videograph shall be produced before the court along with certificate from the videographer under section 65-B of Indian Evidence Act.
- 5) The disposal of the iron ore after e-auction process is conducted under the supervision of Monitoring Committee constituted by Hon'ble Aped Court shall be covered by videograph.
- 6) Immediately the auction amount shall be deposited in this court by the Government of Karnataka and in turn the said amount shall be deposited in any nationalized Bank.
- 7) The DGM should keep records of the exact quantity of iron ore



W. S. S. S. S.
21/3/2020

transported by the successful bidders of the property.

(Dictated to the stenographer, transcribed by her, transcript revised by me, corrected, signed & then pronounced in the Open Court on this the 2nd day of March 2020)

Gramopadhye

(Sri. Vivek Gramopadhye)
J.M.F.C., 2nd Court, Karwar

(SNB)

Certified that this is a true and accurate copy of the Original. And the matters appearing in the Originals has been faithfully copied with no modification

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EXAMINER,

J.Pri Civil Judge & JMFC (II Court),
KARWAR

- | | |
|---------------------------------|-------------|
| (1) Copy applied for on | = 3/3/2020 |
| (2) Copying fees called for on | = |
| (3) Copying fees paid on | = 4/3/2020 |
| (4) Applicant told to appear on | = 18/3/2020 |
| (5) Applicant Appeared on | = 4/3/2020 |
| (6) Copy ready on | = 4/3/2020 |
| (7) Copy delivered on | = 4/3/2020 |
| (8) Copied by | = xeees |
| (9) Examined by | = 4/4/3 |



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Annexure - 3

Forest Crime No. 06/2009-10
Dated: 09/09/2021.

FORSET CRIME No. 06/2009-10
DATED:09/09/2021.

BETWEEN:

1. THE STATE OF KARNATAKA

-----COMPLAINANT.

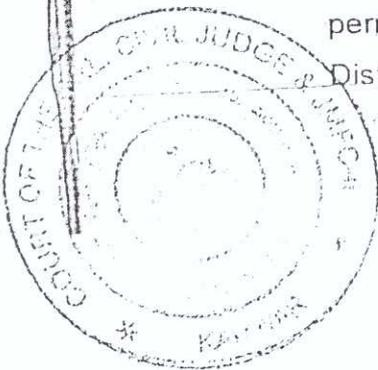
--V/s--

1. THE PORT OFFICER, KARWAR, PORT & OTHERS,

ORDER:

The learned Special Public Prosecutor has filed application, requesting to modify the order passed by this Court on I A under Sec. 457 of Cr.PC order dated: 02-03-2020.

2. In the application, it is stated that this Court has passed Interim Order releasing the Iron ore to dispose off through E- Auction/Tender under the supervision of "Monitoring Committee" constituted by Hon'ble Supreme Court of India. Further, it is submitted that subsequent to the Order of this Court, the complainant have made correspondence with the Director, Department of Mines and Geology and the said authorities have expressed their inability to conduct E-Auction. Hence, the matter was discussed with the Government level and they have decided to seek permission from this Court to call the auction through the District Task Force Committee or Technical Evaluation



As
9/9/21

Forest Crime No. 06/2009-10
Dated: 09/09/2021.

Committee constituted by State of Karnataka for auction of Mineral blocks or any other committee nominated by this Court. Further, it is stated that till no one party has challenged the Order passed by this Court Dated 02-03-2020. Hence, prays to allow the application for the interest of Equity and Justice.

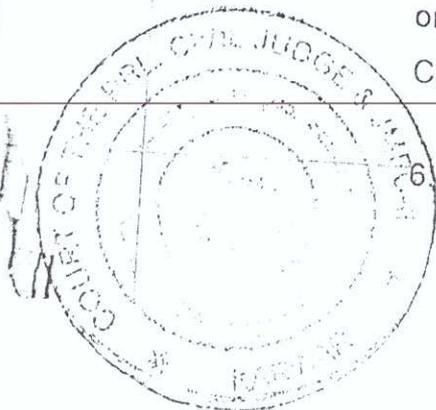
3. Admittedly, the learned Special Public Prosecutor has not served the copy of this application, stating that the Order passed by this Court dated 02-03-2020 has not been challenged by any of the party but to provide an opportunity to the other side, this Court has inquired about the service of the copy to the other side and in the same time, the learned counsel Sri. A.M.S advocate is present and submits that he is representing the learned Counsel Sri. R.V.B, advocate who filed vakalath on behalf of M/S Raj Mahal Silks, Bangalore. The learned counsel Sri A.M.S, advocate on behalf of Sri. R.V.B advocate submitted no objections to pass Order.

4. Heard arguments and perused entire material records.

5. On perusal of Order of this Court dated 02-03-2020, it is seen that this Court has passed Order on IA under section 457 of Cr.PC, for the Interim custody and disposal of Iron ore through **E-Tender** under the supervision "Monitoring Committee" constituted by Hon'ble Supreme Court of India.

The main contention of learned Special Public

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Forest Crime No. 06/2009-10
Dated: 09/09/2021.

Prosecutor is that subsequent to the order of this Court, they have made correspondence with concerned Departments and it was noticed that concerned Department are expressed their inability to conduct E-Auction/Tender of Iron ore. In this regard, the learned Special Public Prosecutor has placed the communication letters between the "Monitoring Committee" appointed by Hon'ble Supreme Court of India bearing its reference No. MONCOM/E-Auction/2020/DMG/6088 dated 03-02-2021 and the letter of Director, Department of Mines and Geology bearing its No. DMG-17011/20/2019/2021-22-CN-95491-2148 dated 09-07-2021 with the learned Special Public Prosecutor. On close reading of aforesaid correspondence belongs to the "Monitoring Committee" appointed by Hon'ble Supreme Court of India, it is seen that the "Monitoring Committee" has expressed its inability to conduct the E-Auction, stating that "Monitoring Committee" is not authorized to conduct E-Auction. Further, on close reading of correspondence letter of Director, the Department of Mines and Geology, it is noticed that the discussion was held with Government level on 07-07-2021 in respect of disposal of Iron ore as per the Order of this Court and discussion was held to dispose the property through the District Task Force Committee, Technical Evaluation of Committee or any other mode as deemed fit by this Court.

7. In the application it is stated that till today no body is

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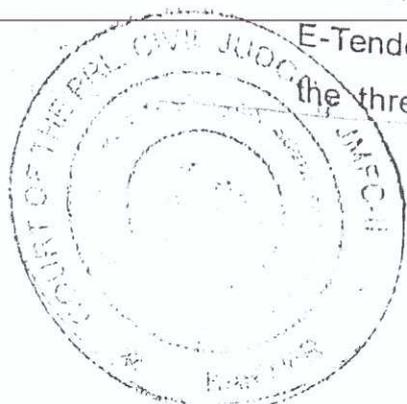
Forest Crime No. 06/2009-10
Dated: 09/09/2021.

challenged the order of this Court dated 02-03-2020. In this regard I have carefully gone through the entire material records. On perusal of entire material records it is seen that till today no body is challenged the Order of this Court dated 02-03-2020 and till today the Order of this Court is in force. Further, on enquiry the learned Counsel Sri. A.M.S who represents on behalf of Sri. R.V.B advocate it is submitted that they have not challenged the Order of this Court dated 02-03-2020.

*Counsel for
R.V.B
11/10/21
A*

*Counsel for
R.V.B
11/10/21*

8. Admittedly, this Court has passed Order dated 02-03-2020 directing to conduct the E-Auction and dispose of Iron ore as per the terms and conditions. On perusal of records placed by the learned Special Public Prosecutor it is seen that the Government authorities have expressed their inability to conduct the E-Tender. Admittedly, till today the Order this Court is not challenged by any of the party and Order dated 02-03-2021 is in force. The main object of section 457 of Cr.P.C is that if the property seized in any criminal case subject to speedy and natural decay, the property shall be dispose off accordance with law. In the instant case admittedly, seized Iron ore are come under the speedy and natural decay and already Interim Order is passed on IA under section 457 of Cr.P.C and directed to dispose of the seized Iron ore through E-Tender but the Government authorities have expressed inability to conduct E-Tender and ready to conduct the Tender through any of the three above mentioned modes. Hence, to protect the



[Signature]
9/10/21

Forest Crime No. 06/2009-10
Dated: 09/09/2021.

future lose and damages of Iron ore and considering the object of section 457 and also considering the reasons assigned in the application, and to prevent the multiplicity of litigation, I am of considered view that the Order passed by this Court dated 02-03-2021 is required to be modified.

9. The learned Special Public Prosecutor in his application it is submitted that they are ready to conduct Auction through the District Task Force Committee or through Technical Evaluation Committee constituted by State of Karnataka for auction of mineral blocks or through Order of this Court as it deemed fit. On close going through the case file, this Court has deemed fit to conduct the auction through District Task Force Committee for speedy disposal of seized Iron ore and submit the report.

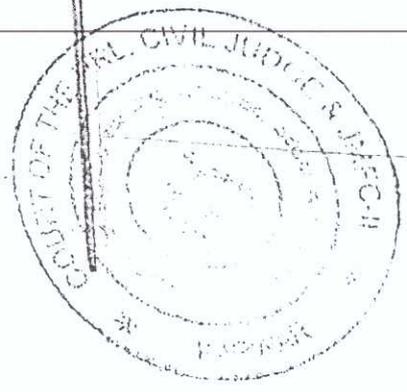
10. Hence, from careful perusal of entire material records and as reasons discussed supra, I am of an opinion that the Order passed by this Court dated 02-03-2021 is required to be modified. Hence, I proceed to pass the following;

*corrected as per order
11/10/19
[Signature]
11/10/19*

ORDER

The application filed by learned Special Public Prosecutor under section 457 of Cr.P.C for modification of Order on IA under section 457 of Cr.P.C dated 02-03-2021 is hereby **PARTLY ALLOWED.**

*corrected as per order
11/10/19
[Signature]
11/10/19*



Forest Crime No. 06/2009-10
Dated: 09/09/2021.

The order this Court dated: 02/03/2021⁴ ordering to dispose off the Iron Ore through E-tender under the Supervision of the "Monitoring Committee" is hereby recalled and stands canceled and it is modified as FOLLOWS:

The seized Iron Ore Shall be dispose off through District Task Force Committee accordance with terms and conditions of order of this Court dated: 02/03/2021.

The Task Force committee shall follow the terms and conditions Order of this Court dated 02-03-2021 and submit the report as per the Order dated 02-03-2021

Await final Report.

Call on: 11.10/2021.

[Handwritten signature]

SHRI. KURANI KANT DHAKU
PRL.CIVIL JUDGE & JMFC,
U K- KARWAR



- Copy applied for on = 12/10/21
- Copying fees called for on =
- Copying fees paid on = 12/10/21
- Applicant told to appear on = 26/10/21
- Applicant Appeared on = 12/10/21
- Copy ready on = 12/10/21
- Copy delivered on = 12/10/21
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EXAMINER,
Prl Civil Judge & JMFC (T Court),
KARWAR



Annexure - R-4

13915

21 pages and a court fee stamp of Rs. 100/- in all

Cr. R. No 143/20
R.F. & Ankola

IN THE COURT OF SENIOR CIVIL JUDGE & JMFC,
ANKOLA

Dated this the 5th day of October 2020

PRESENT

Sri. Saheel Ahmed Kunnibhavi,
B.Com.,LL.B.,(Spl)
Senior Civil Judge and JMFC, Ankola

ANKOLA FOREST CRIME NO.17/2009-10

COMPLAINANT: The State of Karnataka
PETITIONER

(By learned Special P.P.)

-Vs-

- RESPONDENTS:**
1. Port Conservator,
Belikere Port. (Accused)
 2. CID., Carlton House,
Bangalore.
 3. C.B.I., ACB, Ganganagar,
Bangalore.

ORDER ON AN APPLICATION FILED U/s 451 & 457 OF
Cr.PC FILED BY STATE OF KATAKANA FOR THE
INTERIM RELEASE/ DISPOSAL OF SEIZED IRON ORE-

1. The Special Public Prosecutor has filed this application for the interim release/disposal of seized Iron Ore stored at Belekeri Port premises in the larger interest of State.



5-10

2. The learned Senior Special PP has contended that, the State has register the case against the accused for the offence punishable U/s 24 of Karnataka Forest Act, 1963 as per the permission from the Hon'ble JMFC, Ankola, and investigating the matter. In this case, approximately 5.00 lakhs M.Tons of Iron Ore of value of Rs.150 Crores where seized and placed at the Port Area, Ankola. The said Iron Ore was handed over to the Port Conservator, Belekeri, and seizure report/PF submitted to the Hon'ble JMFC, Ankola, on 20-03-2010. The Hon'ble JMFC Court permitted to retain the same until further orders.

3. The learned Special PP has contended that, Greentex Mining Industries Limited, Bangalore, Doddannwar Brothers, Belgavi ILC Industries Limited, Hospet and P.K.Pounran have filed an application for the release of the property but, Hon'ble JMFC, Ankola has rejected the applications filed U/s 451 Cr.P.C on the ground that, no ownership documents produced by the parties. But, the Hon'ble JMFC, Ankola allowed the applications filed U/s 451 R/w 457 Cr.P.C filed by Sri Venkateshwar Transport on 28-05-2010. However the property/Iron Ore could not be released since the applicant failed to produce valid documents as per order of the Hon'ble Court.

V.S.10.



4. In due course of the investigation, officer has come to know that, the actual quantity of Iron Ore seized on 20-03-2010 was 8,05,991,083 M.Tons which is allegedly belonging to various exporters/parties and the same was brought to the kind notice of Hon'ble Judicial Magistrate First Class, Ankola.

5. He has further contented that, most of the seized Iron Ore has been exported out of the Port Area and it was found that major quantity of seized iron ore is missing and hardly approximately 2.00 lakh M.Tons of Iron Ore is found in the Port Area. The remaining quantity of approximately 6.00 lakh M.Tons of seized Iron Ore were stolen away/exported from the Port Area without the knowledge of the Court. This has been brought to the kind notice of the Hon'ble Judicial Magistrate First Class Court, Ankola, and case was registered against the 12 persons which was registered Under Crime No.189/2010 of Ankola Police Station for the offence Punishable U/s 406 IPC.

6. He further contended that, Hon'ble High Court of Karnataka dismissed the writ petitions bearing its No.WP No.14551/2010, 14552/2010, 15742/2010; 15743/2010;15744/2010;15745-46/2010;15756/2010 and 16055/2010 filed by the various mines exporters



S-10

challenging the order passed by Hon'ble JMFC, Ankola passed U/s 451 and 457 Cr.P.C.

7. He further contended that, The Hon'ble Government of Karnataka ordered for CID investigation and case was handed over accordingly to the CID Officers. The Hon'ble Supreme Court India relying CEC report in Writ Petition (Civil) No. 562/2009 pleased to ordered as -

"to immediately institute FIR's and to investigate the case(s) relating to the illegal extraction of about 50.79 lakh M.Tons of Iron Ore from the Forest Areas of Karnataka during the period January 1, 2009 to May 31, 2010 of the illegal transport of the aforesaid quantity of Iron Ore. Further, it is also directed in the said order that CID, Karnataka, shall remain stayed. The CID, Karnataka shall hand over all records with regard to that case to the CBI"

And further ordered on 16-9-2013 as-

"permitting the CBI to register criminal case against those exporters who were inquired into in the preliminary inquiry and who had exported Iron Ore of more than 50,000 M.Tons without valid permits and as recommended by the Central Empowered



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Joint Committee, in its report dated 5th September 2012."

8. Further, the Ankola Police in Crime No.189/2010 filed 39 Charge Sheets before Hon'ble J.M.F.C, Ankola.

9. It is submitted that, in some cases Hon'ble High Court Karnataka as well Hon'ble Supreme Court directed the parties to approach jurisdictional Criminal Courts to claim the properties on 'existence and ownership basis'. Following the Supreme Court and High Court orders even some parties approached CBI Court CCH- 34, Bengaluru, but their claim petitions were rejected for want of jurisdiction.

10. He further contended that, in W.P No:26558/2016 (GM-MM-S) filed before the High Court of Karnataka in case between M/s.Doddanavar Brothers and state of Karantaka and others, the Hon'ble High Court Karnataka ordered to release the Iron Ore but, later all connected writ petitions are restored. Further, In WP No.33127-35/2017 (GM-MM-S) on the file of the High Court of Karnataka filed by Sri.Terapanth Foods Ltd. Vs State of Karnataka and others & W.P No.29527-31/2017 (GM-MMS) on the file of the High Court of Karnataka at Bengaluru Sri. P.K. Ponuraj Vs State of Karnataka and others Hon'ble High Court directed the petitioners to approach the jurisdictional Criminal Court.



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11. He further argued that, the application already filed U/s 451, 457 and 458 Cr.P.C through learned APP on 23-08-2011 which is still pending for consideration by this Hon'ble Court which can be read as part and parcel of this petition.

12. He further contended that, there are no hurdles/impediment to pass appropriate orders U/s 451 & 457 Cr.P.C by this Hon'ble Court. The interim release of available iron ore in favour of state of Karnataka is required so as to conduct e-auction and to deposit the amount in the account of this Hon'ble Court till passing of final order as Department of PWD is interested to open the Belekeri Port for commercial operation and they are keen to develop this port for economic purpose from the point of State Revenue. The shipping activities are obstructed because of dumping of Iron Ore causing revenue loss of about 15-20 Crores of rupees per annum. Further, significant amount is being spent on protection of these Iron Ore heaps by way of covering with tarpaulin every year. Huge expenditure incurred for protection of Iron Ore heaps at Belekeri Port which is under the custody of Forest Department by covering tarpaulin from 2012-2013 to 2018-2019 is Rs.4068911.00. Huge stock of Iron Ore in Belekeri Port premises which are in Belekeri Port premises lying since 9 years exposed to weather, wind and heavy rains. There is possibility of erosion which may lead to loss of the material. Quality of the ore

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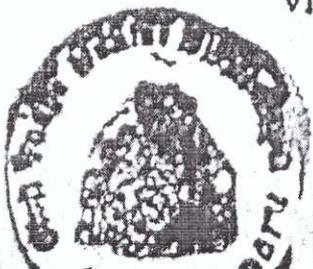
is diminishing. The present market value also gone down considerably.

13. He further contended that, the State of Karnataka to release the available Iron Ore seized which were reported to this Hon'ble Court on 20-03-2010 and 09-02-2011 which are now in the custody of Post Conservator, Belekeri Port and Range Forest Officer, Ankola, respectively lying in the premises of Belekeri Port and so as to conduct e-auction of the same by Karnataka Government through e-tender under the supervision of the "Monitoring Committee" constituted by the Hon'ble Supreme Court and to deposit the amount in the account of this Hon'ble Court till passing final order. The Government of Karnataka in order to keep transparency herewith undertake as follows:

1. The auction of property would be conducted through e-tender only after measurement of the quality & quantity of each of the 56 Iron Ore heaps separately through Mines & Geology Department.

2. The e-auction would be conducted after taking samples of each of the 56 Iron Ore heaps separately for which Panchanama would be drawn.

3. After the e-auction process is over the disposal off the iron ore be covered by Videography.



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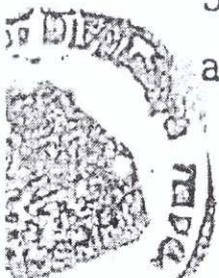
4. The DGM would keep records of the exact quantity of Iron Ore transported by the successful bidder of the property.

On all these grounds the Applicant/SPP prays to allow the application to conduct e-auction of the seized Iron Ore by Karnataka Government through e-tender under the supervision of the "Monitoring Committee" constituted by the Hon'ble Supreme Court and to deposit the amount in the account of this Hon'ble Court/in Nationalized Bank so as to fetch interest in the larger interest of the State and in the ends of Justice.

14. On the other hand several claimants has filed objections and they are

15. Objections submitted on behalf of the **Rajamahal** as :- That, the instant application filed by the Special Public Prosecutor U/s 451 and 457 of Cr.P.C. on behalf of State for interim release/disposal of seized Iron Ore is not maintainable on law or on facts of the case and hence deserves to be dismissed.

16. The State has suppressed the true and real fact of the case. The application filed by the state is for disposal of the property. In fact out of the seized Iron Ore, 5,663.590 M.Tons quantity of Iron Ore belongs to this applicant Rajamahal Silks.



5.10

17. The FIR was lodged in the year 2009 and till now charge sheet has not been filed. The State has no right to file any such application for release of the seized Iron Ore. Since there is no progress in the case. There is no question of releasing the Iron Ore or giving permission for sale of Iron Ore to the State. They have already filed separately application for release of quantity of 5663.590 M.Tons of Iron Ore out of the total seized quantity to the interim custody of this objector/applicant Rajamahal Silk.

18. He further contended that, if this Hon'ble Court feels that the application deserves to be allowed, the State may be directed to confirm that the Iron Ore of the quantity of measuring 5663.590 M.Tons is of this objector Rajamahal Silk is in Belekeri Port Premises. After sale of the Iron Ore, the amount equal to the said quantity of 5663.590 M.Tons shall have to be paid to this objector/ Rajamahal Silk.

19. Objections submitted by Mr Mahesh Beliyé S/o Jaiwant Beliyé, port conservator Belekeri Port. That, right now he is not working as the Port Conservator at present, and he has no control or any kind of information regarding the alleged Iron Ore heaps after his retirement. The competent person should be the Port Conservator Belekeri who is discharging his functions as on the date.



5.10

20. He has retired from the Government Service in the Month of July 2016 and he has handed over all the official charges to the Deputy Port Conservator Belekeri at the time of retirement. The Iron Ore stack now shown in the application was never in the custody or care of this Objector.
21. Objection submitted on behalf of the Gimpex Pvt. Ltd, and contended that, that the State has suppressed the true and real fact of the case and by misleading the facts a false application is filed. Out of the seized Iron Ore, 4864.640 M.Tons quantity of Iron Ore belongs to this applicant Gimpex Pvt. Ltd.
22. They have filed already separately application for release of quantity of 4864.640 M.Tons of Iron Ore out of the total seized quantity to the interim custody of this objector/ applicant Gimpex Pvt, Ltd.
23. Objection filed by the M/s Zeenath Transport Company Regd, that, they don't have any objection for granting permission for conducting e-auction as prayed in the application filed by the Special Public Prosecutor. But However, they are the owners of 874.840 M.Ton which is stored at Belekeri. These Iron Ores may be auctioned and deposit in their name.



SIO

24. The objections filed by Shri P.K Pounraj, M/s Satya Granites, and contended that, the Criminal Petition No.758/2018 is pending before the Hon'ble High Court of Karnataka, and this application filed by the State is not maintainable and they are not entitled to conduct e-auction of the seized Iron Ore. The application deserve to the dismissed.

25. The statement of objections filed by M/s Doddannavar Brothers. They are the real owner of the Iron Ore placed at the Belekeri Port Area. The claimant has claimed only to the extent 48,917.48 M.Tons. The application itself is not maintainable and deserved to dismissed.

26. Objection submitted on behalf of Sri Venkateshar transport. That, the Iron Ores seized herein are their properties placed at Belekeri Port. They have filed separate application U/s 451 R/w 457 of Cr.P.C, for the release of the Iron Ore and the said application was allowed by the Hon'ble Court on 28-05-2010. They have approached the complainant/State and produced all the relevant documents and the Port Conservator Belekeri, requesting them to release the cargo as per the orders of the Hon'ble Court. However, in spite of the production of all the relevant documents the Forest Officials have shirked their responsibilities and have not returned the seized cargo to them. They have further contended that,



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the IO or the concerned officer may kindly be instructed to give the exact status report regarding the pending case if any against this objector and further be directed to submit all the documents with regard to the property claim of the objector before this Hon'ble Court or before the "Monitoring Committee" by giving stipulated period.

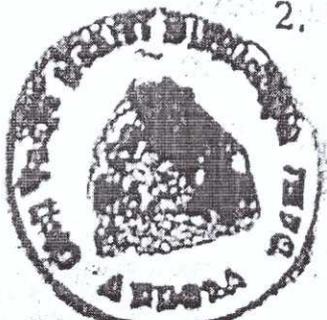
27. Objection filed by Vedanta Limited, that, the entire quantity of Iron Ore stored at Belekere Port Area had been seized on 15/03/2010 by the Range Forest Officer, Ankola, belongs to various mining lessees, dealers, traders and exporters. Out of total quantity they are owners of about 34,544.61 M.Tons of Iron Ore. The state has no right to auction the property. Hence, the application deserve to the dismissed.

28. Heard the arguments of the learned Special PP and advocate for the claimants at length and perused the records of this case.

29. Based on the above said pleadings of the parties, following issues have been framed:

1. "Whether the learned Special PP has made out the sufficient ground to allow the application?"

2. What Order?



S.10

30. The court below has answered the above points as under:

Point No.1: In the Negative

Point No.2: As per final order

:: REASONS ::

31. **Point No.1:** During the course of the argument, the learned Senior Counsel for the claimant for Vedanth and Doddannvar Brothers, Mr.S.R.Narvekar has argued in length that during the year 2010 the case was registered. However until this date the State has not declared any kind of illegal minings by these claimants. The Government has handed over for the investigation to the COD, CID, CBI and other Investigation Department. But, until this date they have not concluded and alleged that, these Doddannavar brothers and Vedanth were held for illegal minings. The Hon'ble Supreme Court, High Court and the CBI Court also declared them as entitled to take the possession of the Mines placed at Belekeri Port, Ankola. He further argued that, the property is belongs to the claimants and they are only entitled to file the application U/s 451 & 457 of Cr.P.C. The state has been not claiming the property, as belongs to them and when such being the case how the Government has right to file this application to auction the property. If the property is auctioned it may auction for minimum price and they will face irreparable loss. The Hon'ble Supreme Court and



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High court has declared that, the property is belongs to them. But, in spite of the order passed by the Hon'ble Supreme Court and High Court the property has not been handed over to their possession. The property was taken to the possession by the state when it was transporting by the claimants as per the lease and licence issued by the Government. They got valid licence for minings. The state has filed this application only to harass the claimants.

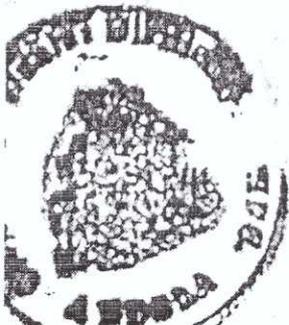
32. On the other hand the learned Special PP has argued that, the said mines absolutely belongs to the Government. The state has already filed final report against the accused. They are not the third parties and absolutely entitled to file this application. The property can be auctioned and can deposit at Court. If the claimants are able to show their ownership, they can claim the auction amount. The Government has been spending huge amount for the maintenance of the mines. If the property is auctioned no loss will couse to the claimants.

33. The learned Special PP has filed this application U/s 451 & 457 of Cr.P.C. Section 451 of Cr.P.C is read as under:-

Section 451 of Cr.P.C:-

Order custody and disposal of property pending trial in certain cases. When any

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property is produced before any criminal court during any inquiry or trial the court may make such order as it thinks fit for the proper custody of such property pending the conclusion on the inquiry or trial and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do the court any after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed or.

Explanation- For the purposes of this Section, "Property" included-

- (a) Property of any kind or document which is produced before the Court or which is in its custody.
- (b) Any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

34. Section 457 of Cr.P.C is read as under:- Section 457 of Cr.P.C:- Procedure by Police upon seizure of property:-

(1) When ever the seizure of property by any Police Officer is reported to a Magistrate under the provisions of this code, and such property is not produced before a criminal code during an inquiry or trial, the Magistrate may make such



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order as he thinks fit respecting the disposal of such property or the delivery of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

(2) If the person so entitled is known, the magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within Six Months from the date of such proclamation.

35. Section 451 defiance that, when any property is produced before any Criminal Court during any inquiry or trial the Court may make such order for the proper custody of such property pending the conclusion on the inquiry or trial. In this case the Learned Special PP has himself contended that, approximately 5.00 lakhs M.Tons of Iron Ore worth of Rs.150 Crores were seized in this case and handed over to the Port Conservator Belekeri on 20-03-2010. Further, In Para No.7 it was

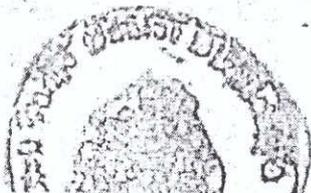


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contended that, during the course of investigation it was ascertained by the Port Conservator, Belekəri, that the actual quantity of Iron Ore seized on 20-03-2020 was 8,05,991.083 M.Tons at Belekəri Port allegedly belonging to various exporters/parties as per the stock available. The same was brought to the kind notice of Hon'ble Judicial Magistrate First Class Ankola. Initially PF was submitted to the Court and alleged that, 5.00 Lakhs M.Tons of Iron Ore worth of Rs.150 Crores were seized and later it was contended that, the actual quantity of Iron Ore seized on 20-03-2020 was 8,05,991.083 M.Tons allegedly belonging to various exporters/parties as per the stock available. Further, the learned Special PP has contended that, most of the seized Iron Ore has been exported out of the Port Area and it was found that major quantity of seized Iron Ore is missing and hardly approximately 2.00 lakh M.Tons of Iron Ore is found in the Port Area. The remaining quantity of approximately 6.00 lakh M.Tons of seized Iron Ore were stolen away/exported from the Port Area without the knowledge of the court. Only 2.00 lakh M.Tons of Iron Ore is found in the Port Area, it is contended by the Special PP itself.

36. It is on record that, Hon'ble High Court in W.P No.33127/35/2017 and in WP NO.29527/31/2017 as well as Hon'ble Supreme Court directed the parties to approach Jurisdiction Criminal Courts to claim the properties on "existence and ownership basis". When



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the Hon'ble High Court of Karnataka and Hon'ble Supreme Court of India directed the parties to approach Jurisdiction Court to claim the property, how can the State is interested to conduct e-auction of the said property? The very application filed by them U/s 451 & 457 is pending before this Court. Further, the Hon'ble High Court of Karnataka in WP No.18941 of 2016 and 19328-19335 of 2016 was pleased to held that, the we do not find any impediment to release the Iron Ore in favor of the petitioner. An inventory has to be preferred and thereafter the Iron Ore shall be released in favour of the writ petitioner-Vedanta Ltd, immediately. The entire process must be completed by Four Weeks. The Hon'ble High Court of Karnataka directed to release property in favour of the petitioner, why the said property has not been released? No evidence, is there any appeal on the said order? Was not clarified before this Court. Further, when there is order to release the property by the Hon'ble High Court of Karnataka, how the learned Special PP urged to conduct e-auction?

37. It is submitted that, one of the opponent had filed writ petitions bearing W.P.No.18941/2016 & W.P. No.19328-335/2016 before the Hon'ble High Court of Karnataka at Bangalore, challenging the order dated 09-05-2015 passed by the Court of XXXII Additional City & Session Judge and Special Judge for CBI cases in



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Bangalore, in Spl.C.C Nos.268/2013, and the Hon'ble Court has passed the order by allowing the applications filed by the State Government and permitting the disposal of the seized Iron ore through auction by e-tender. The Division Bench of the Hon'ble High Court of Karnataka at Bangalore had passed the final order dated 04-07-2017 allowing the writ petitions and directing the authorities to release the seized Iron Ore to the opponent in W.P.No.18941/2016 & W.P.No.19328/2016.

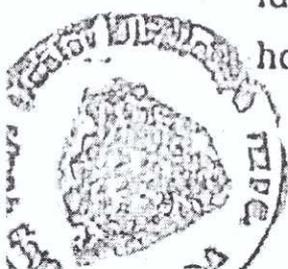
38. It is also on record that, the State had filed the Special Leave petitions before the Hon'ble Supreme Court of India in S.L.P (Crl) Dairy No.2398/2018 challenging the final order dated 04-07-2017 passed by the Hon'ble High Court in W.P.No.18941/2016 & W.P.No.19328/2016. The Hon'ble Supreme Court of India by allowing the aforesaid appeals and setting aside the order of the Hon'ble High Court of Karnataka had granted the liberty to the opponent herein to file an appropriate application before Court of XXXII Additional City Civil & Session Judge & Special Judge for CBI cases in Bangalore (CCH34) for the release of the seized Iron Ore and that the said Jurisdictional Criminal Court to consider the same in accordance with law. As per the order of the Hon'ble Supreme Court the claimant had filed the application U/s 451 & 457 of Cr.P.C in Spl. C.C No.268/2013 before the Court of



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XXXII Additional City Civil & Session Judge & Special Judge for CBI cases in Bangalore, seeking for the release/return of seized Iron Ore of 27,357.399 MT belonging to them. The Hon'ble Court has passed the Order dated 03/09/2018 rejecting said application filed and held that, the application itself is not maintainable, and further observed that, the property is not in possession of investigating officer of the said case or not produced before the Court and hence, cannot direct some other agency or authority or person to release the property in favour of the opponent herein / applicant.

39. When there are several orders and directions issued by the Hon'ble High Court of the Karnataka and Supreme Court of India and when the several claimants claiming the property how it is feasible to conduct e-auction?. The Hon'ble Supreme Court of India directed the parties to approach the CBI Court and also to the Jurisdictional Court. As per the direction there are several application pending before the Court since 2009. Further, more it is the case of the state itself that, near about 8 MT of Iron Ore were seized and reported to the court. Out of 8 MT near about 6 MT Iron Ore either illegally exported or it was stolen. Until this date the final report even has not been filed by the State. Several claimants claiming the property. The very identification of the property is in question to whom and how much the Iron Ore belongs. The application itself is



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not maintainable. Hence, I answered Point No.1 in Negative.

40. POINT No.2: In the result, I proceed to pass the following:-

ORDER

Application filed Under Section 451 & 457 of Cr.P.C dated 13-01-2020 filed by Special Public Prosecutor is hereby rejected.

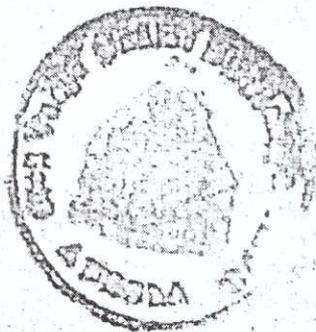
(Dictated to the Stenographer directly on computer, corrected by me and then pronounced in the open court on this the 5th day of October 2020.)

5.10

(Saheel Ahmed Kunnibhavi)
Senior Civil Judge and JMFC
Ankola.

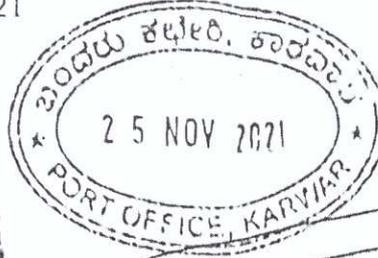
Certified that this is a true and accurate copy of the original. All the matter appearing in the original has been faithfully copied with no modification
Examiner
Civil Judge (Jr. Dn) court
ANKOLA

True copy



- 1) Copy applied for on 07-10-2020
- 2) Copying Sheets / Charges required _____ to be produce on _____
- 3) Copying sheets / charges produced on 08-10-20
- 4) Applicant required to appear on 22-10-20
- 5) Applicant appear on 09-10-20
- 6) Copy ready on 08-10-20
- 7) Copy delivered on 09-10-20
- 8) Copy by _____
- 9) Examined by _____

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Annexure A-5

IN THE COURT OF THE II ADDL., DISTRICT & SESSIONS
JUDGE, UTTARA KANNADA, KARWAR.

DATED THIS THE 20th DAY OF NOVEMBER-2021

CRL.R.P. NO: 2/2021

PRESENT: Sri. Ganesha B.
B.Sc., L.L.M.,
II ADDL. District & Sessions Judge,
Uttara Kannada, KARWAR.

Petitioner:

The State of Karnataka
(By Sri.Ashok N. Naik, Advocate.)

Vs.

RESPONDENTS:

- 1) Port Conservator,
Belekeri Port,
- 2) C.I.D. Carlton House,
Bengaluru.
- 3) C.B.I., ACB, Ganganagar,
Bengaluru.
- 4) Rajamahals Silks,
A partnership,
48/1, Sanjeevappa Lane,
Avenue Cross, Bengaluru
- 5) Gimpex Pvt. Ltd., A company,
Registered office at # 282, Lingi
Chetty Street, Chennai
- 6) P.K. Pounraj,
S/o. Kuppaswamy Devar,

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Age: 55 years, Proprietor
M/s. Satya Granites,
No. 69, Abhiman Bypass Road,
Dharmapuri,
Tamilnadu - 636701

- 7) M/S Doddannavar Brothers,
Registered Partnership Firm,
Doddannavar Compound,
Near Fort,
Belgaum - 590016
- 8) Venkateshwar Transport,
SVT Complex, Opposite Union Bank,
Ballary Road, Hospet
- 9) Vedanta Ltd.,
Formerly known as Sesa Sterlite Limited
& Sesa Goa Limited) Regd., Office at
1st Floor, 'C' Wing, Unit 103, Corporate
Avenue Road, Atul Projects, Chakala,
Andheri (East). Bumbai - 400093
Maharashtra

R-1 : by Sri. G.N.J., Adv.,
R-2 : Served
R-3 : Public Prosecutor
R-4 & 5 : by Sri. N.B.K., Adv.,
R-7 & 8 : by Sri. V.A.T., Adv.,
R-9 : By Sri. S.R.N., Adv.,

ORDER

The petition is filed by the petitioner/State U/section 397 of Cr.P.C. questioning the legality and correctness of the order passed by the learned Senior Civil Judge and JMFC., Ankola Forest Crime No. 17/2009-10 dated 5.10.2020 and also permit

the State to conduct e-auction of the seized iron ore through e-tender under the supervision of the "Monitoring Committee".

2. The revision petitioner was the complainant and respondents were the claimants/Objector/respondents before the trial court, hence for the sake of convenience rank of the parties will be referred as stood before the trial court.

3. The revision petitioner/complainant before this court has registered the case against the respondents for the offence punishable U/sec. 24 of Karnataka Forest Act, 1963 and investigating the matter. During the course of investigation about 500 lakh metric tons of iron ore valued about 150 crores has been seized and place at Belekeri port of Ankola and the same is handed over to the custody of the Port Conservator and the P.F. under which the property seized has been handed over to JMFC, Ankola on 20.3.2010 and by virtue of the order of the JMFC, Ankola the property has been retained at Belekeri Port Area. However, during the pendency of the case, the alleged Mine owners i.e., Sri. Venkateshwara Transport has filed the application U/sec. 451 and 457 of Cr.P.C. and prayed to release the iron ore belonging to them and for not having produce the documents of title to claim the same, the same is rejected. During the pendency of the same, the iron ore which is stored at Belekeri port, on inspection it is noticed that out of the seized

total ore during investigation about only 2.00 lakh metric tones was visible to be present and about 600 lakh metric ton were already stolen by the Port area and when the same is brought into notice of JMFC, the JMFC has directed to lodge the complaint against the persons who have illegally transported and thereby, IO/ACF has lodged the complaint against 12 persons which was registered under Crime No. 189/2010 of Ankola police for the offence U/sec. 406 of IPC. However, in pursuance of the same the Government of Karnataka ordered for CID investigation vide order OE91/CID Bangalore at 28.9.2011 in Crime No. 189/2010 and handed over the investigation. However, the Hon'ble Supreme Court by relying on the report of CEC in Writ petition (civil No. 562/2009) ordered and directed the CBI., to register the case and proceed in Crime No. 189/2010 and the investigation of CID Karnataka has been stayed and whole records were handed over to CBI. However, CBI., on enquiry and reported that about 50 thousand metric ton of ore has been exported without valid permit and submitted the report on 5.9.2012. Meanwhile, the claimants/owners have approached Hon'ble High court of Karnataka claiming the iron ore filed by the various alleged mine owners except few and when State Government challenged the Hon'ble High court order releasing property in favour of party in WP No. 18941/2016 of M/s Vedanta Ltd., V/s. State of Karnataka and others, the Hon'ble Supreme court in Criminal Appeal No.

348-356/2018 set aside the High court judgment and directing the party to approach CBI Jurisdictional court. The parties approached CBI., court, Bengaluru, but their claim petitions were rejected for want of jurisdiction. The order of CBI., court, Bangalore dated 3.9.2018 on which its earlier order was kept in abeyance. Further, it is submitted that CBI investigated and investigating the whole matter pertaining to iron ore in connection with Belekeri Port as per Hon'ble Supreme court order, which filed some charge sheets before various courts. The Belekeri Port is minor port under Government of Karnataka. Department of PWD is interested to open the Belekeri Port for commercial operation and Government is keen to develop this port for economic purpose from the point of State Revenue. The shipping activities are obstructed because of dumping of iron ore causing revenue loss of about 15-20 crores of rupees per annum. Hence, it is submitted that the Government with view to activate Belekeri port took interim steps under section 451 and 457 of Cr.P.C. seeking interim release of available iron ore to conduct e-auction and depositing the amount in the account of court till passing of final order. Significant amount is being spent on protection of these iron ore heaps by way of covering with tarpaulin every year. Since 9 years iron ore exposed to weathering wind and heavy rains which lead to loss of the material, diminishing of quality. Therefore, the revision

petitioner has filed application before JMFC., for permitting to E-auction the iron ore under the supervision of the monitory committee constituted by Hon'ble Supreme court and to deposit the same in the court till final order. But, the trial court after calling for objection from more than 40 mine owners among them the respondent No.4, 5 and 8 have appeared and filed similar application to release the iron ore and the respondent No.6, 7 and 9 have opposed the E-auction without filing any claim petition. However, the learned JMFC., after hearing has proceeded to reject the application stating that the Hon'ble Supreme court has given an opportunity to the Mining owners to approach the jurisdictional court to claim the ore on the principle of existence and ownership and thereby, when the claim petitions are pending, the application filed by the revision petitioner is not maintainable and aggrieved by the same, revision petitioner has filed the present revision petition on the following grounds:

That the trial court has failed to dispose the petition of State in accordance with law. The trial court has failed to appreciate urgency behind filing the application on behalf of State. The trial court has failed to appreciate the point of claim and counter claim. The trial court has failed to dispose of simultaneously the petition of State and rival claim petitions finding the genuine claim which lead to miscarriage of justice. The trial court has failed to study the judgments of

Hon'ble High court and Hon'ble Supreme court. The trial court has failed to respect the judgment of Apex court and relied and the set aside judgment of High court ignoring Article 141 of the Constitution which is unconstitutional. The trial court has failed to appreciate the 'no objection' endorsement given by some of claimants for E-auction to the State. The trial court has failed to appreciate the State petition when majority of parties shown no interest in claiming the property though they were served with notices. The trial court has failed to take interest in disposing the claim on existence and ownership basis and held court cannot compel the rival claimants/objectors to argue. The trial court has failed to note that the claimants/objectors are taking under advantages at the cost of State interest. The trial court has failed to consider State loosing Crores of rupees revenue because of inactive of Belekeri Port. The trial court has failed to consider hampering of developmental works of the State in view of occupancy of iron ore in Belekeri Port premises. The trial court has failed to consider the right of State Government to carry on developmental activities. The trial court has failed to act with judicial and fair approach as helpless and powerless in disposing claim petition and prayed to set aside the order of trial court dated 5.10.2020 and rejecting application of State Annexure A & B and also permit the State to conduct e-auction of seized iron ore in Ankola Forest FIR 17/2009-10 by Karnataka Government through e-tender under the supervision of the "Monitoring Committee" constituted by the Hon'ble Supreme Court and to deposit the amount in

the account of trial court/in Nationalized Bank so as to fetch interest and such other reliefs.

4. The petitioners and the respondent No.1, 4, 5, 7 & 8 are duly represented by their learned counsels. Lower court records have been secured.

5. The counsel for the Revision petitioner has argued that the learned Magistrate has not considered the necessity of e-auctioning of the ore which was under the custody of Conservator of Belekeri Port and due to dumping of iron ore, the environmental of Belekeri port is totally ruined and though the Government intended to start commercial activity in the port due to existence of ore it is not possible and thereby, the State is incurring financial loss to an extent of crores and the respondents are taking advantage of the same and they are opposing the petition. But, the learned Magistrate has failed to consider the genuine necessity of the prayer of the State wherein, the State intended to E-auction the ore and to deposit the same in the Nationalized Bank which earns the interest and the person who is going to establish the title over the ore can very well take the amount and therefore, the order passed by the learned JMFC is not sustainable and therefore, he has prayed to allow the revision petition and permit to conduct E-auction as prayed in the application as per the guidelines imposed in the

order dated 8.5.2015 by 32 Addl. City Civil and Sessions court, in Special case No. 268/2013.

6. The counsels for the respondents 4, 5, 7 to 9 who have filed written objection and also written argument and the gist of their argument is that when the Hon'ble Supreme court has given an opportunity to them to claim the ownership over the ore which is in the custody of Belekeri Port Conservator which is belonging to them under the principle of existence and ownership basis and when the respondents have filed application before the learned JMFC, Ankola and the learned JMFC Ankola who heard the application, But, not disposed off the same and he has disposed off the application filed by the State and though the order is infavour of the respondents but, the claim of the respondents ought to have been considered along with the application and therefore, if the e-auction is conducted then it is the respondents who will loose the cost of the ore and in the auction the ore may be sold in a cheaper rate and thereby, they will sustain the loss and therefore, when the respondents have claiming the ownership over the Ore who have extracted the Ore based on the valid mining licence and when there is no document to show that the respondents have illegally extracted the ore from the mines, the State cannot claim that none of them have claimed and maintaining the ore at Belekeri port is a burden to them and they are incurring financial loss. Therefore,

they have prayed to dismiss the petition as it is groundless and also it is barred by limitation.

7. After hearing the argument advanced by either sides, the following points would arise for my consideration:

1. Whether the order passed by the learned Magistrate is required to be interfered?
3. What Order?

8. After hearing argument advanced by either side and after careful consideration of the documents produced by the petitioner, I answer the above points as follows:

Point No.1: In the **Negative**.

Point No.2: As per final order, for the following:

REASONS

9. Point No.1 : It is the case of the petitioner that the iron ore which is seized under the Forest Offence case in FOC 17/2010 by RFO., Ankola and reported the same to JMFC Ankola and the case is registered and the seized iron ore has been given to the custody of the Conservator of Belekeri Port and it is lying since 2010 and due to handing over of the investigations to various authorities and the Government is intended to commence the commercial activity at Belekeri Port and thereby,

it is intended to conduct e-auction and to deposit the amount to the court, it has filed the application but, the learned JMFC has rejected the same. In this aspect of the matter, the respondents who are claiming to be owner of the ore seized under FOC 17/2010 which is reported to JMFC, Ankola through P.F. have opposed stating that it is the State which is not releasing the property to them and by virtue of the direction of the Supreme court, they have filed the necessary application before the Hon'ble JMFC, Ankola who heard the applications of the respondents and not passed any order on their applications. But, he has disposed of the application of the State and therefore, the claim made by the petitioners/State is not genuine and they have opposed the same stating that if their application is disposed off, the present problem of the State will come to an end. Upon these rival contentions, the seizure of the iron ore under the forest offence and dumping of ore at Belekeri port under the custody of the Conservator of the Belekeri port and the investigation is handed over to CID and thereafter to CBI., and the approach of the various claimants claiming the release of the ore to the CBI court and also Hon'ble High court of Karnataka are not in dispute and even the Hon'ble High court of Karnataka has passed order directing to release the properties in favour of the owners after examining the ownership of the ore. It is also not in dispute that the State has challenged the said order before Hon'ble Supreme

court of India in Criminal petition No. 348-356/2018 (arising out of SLP (Criminal) Dairy No. 2398/2018) dated 6.3.2018 and wherein, ultimately the Hon'ble Supreme court of India has directed and passed the following:

" in the result foregoing discussion we are of the view that order and judgment of the High court is wholly unsustainable and is hereby set aside. We, however, observe that it shall be open for the respondent to file an appropriate application before the 32 Addl City Civil and Session Judge and Special Judge for CBI cases, Bangalore, (CCS 34), for the release of seized iron ore establishing its existence and its ownership right over the same, which may be considered by the jurisdictional criminal court in accordance with law. The criminal appeal is allowed. "

In pursuance of the direction of Hon'ble Supreme court, the respondent/owners of mines have approached the CCH 34 and City Civil and Sessions Judge has rejected the applications and stayed the order passed on 8.5.2015 in Special case No. 268/2013 on 8.5.2015 and it is also observed that since the ore is not in the custody of CBI court, the CBI court cannot pass any order in respect of the release of the property and in pursuance of the said order, the present respondents who are contesting this petition have approached the JMFC Ankola and moved the application U/sec. 451 and 457 of Cr.P.C. claiming right over the ore to release to their interim custody stating that though the case is registered in the year 2010, yet no charge sheet is filed and they are not responsible for laying the iron ore at Belekeri

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port. Under these circumstances, the State which has filed this application contending that it is incurring the financial loss due to storing of the iron ore seized in the forest offence case and thereby, e-auctioning of the said ore is very much necessary and only few mine owners have approached and majority of them have not approached to claim the release of the ore. In this aspect of the matter, when there is a specific direction by the Hon'ble Supreme court to the mining owners to approach the jurisdictional court i.e., JMFC, Ankola and the contesting respondents have moved the application and the same is also heard and number of applications claiming the mining ore are pending before JMFC Ankola, the State cannot move this type of application to conduct e-auction since, as rightly argued by the counsel for the respondents that if the application filed by the respondents are disposed off, the grounds under which the applications are filed by the State will not exist at all and therefore, it is very pertinent that the applications of the mining owners before JMFC Ankola has to be disposed off as early as possible under the principle of the existence and ownership basis. The respondents have also argued that if the e-auction is conducted then, they will lose the value of the ore and it will be sold for cheaper rate and thereby, instead of it, they have prayed to release the ore in their favour by verifying the documents. But, however the counsel representing for the State has

submitted that it is for the benefit of the mining owners the government intended to e-auction the same and also to have clearance of the Port for development of the port. However, in this regard no documents have been placed by the petitioner that he is intending to do so and what is the extent of loss incurred and State being the custodian of the seized article/ore cannot say that he is sustaining loss due to the storage of ore. If really, the State is incurring such a hurdle definitely, it can make alternative arrangement to shift the ore to a convenient place in consultation with the mining owners. Therefore, when the iron ore is present are not accurately ascertained and inventory is made and as per the record and case papers though about 800 million tones of ore is seized and about 600 million tons of ore is illegally transported from the port and a separate case is registered against the conservator of Belekeri port under Crime No. 189/2010 of Ankola police station, it is very difficult to ascertain what actually the ore available at Belekeri port and to whom it is belonging since, more than 40 mining owners are claiming the ore. Under these circumstances, before disposal of the applications of mining owners and before ascertaining which owner of the mines has illegally transported the iron ore from the Belekeri port to what extent to different countries, it is not practically feasible to conduct e-auction. Further, the concerned police have not yet filed the charge sheet before the JMFC

Ankola. Under these circumstances, I am of the considered opinion that the application filed by the State for conducting E-auction is not supported with good reasons to allow and the same is liable to be rejected.

10. Having said so, I have gone through the order passed by the learned Magistrate wherein, the learned Magistrate has considered all the aspects of the case and he has discussed from the inception of the case i.e., forest offence case and the submission of the property to JMFC Ankola and the subsequent proceedings of transfer of investigation from one authority to other authority and all the proceedings held from the JMFC court till Hon'ble Supreme court of India and he has come to the right conclusion that when the respondents/owners of the mine, have approached the jurisdictional court i.e., JMFC Ankola for the release of the Mines and number of similar petitions are pending since 2009, the application filed by the State is not maintainable and proceeded to reject the application filed by the State for conducting e-auction. Therefore, I am of the considered opinion that there is no irregularity or illegality committed by the learned Magistrate in coming to such conclusion and therefore, the arguments advanced by the counsel for the State that the order passed by the learned Magistrate is not correct and not considered the interest of the State is totally unsustainable. Thereby, the revision petitioner has not made out any such

reason so as to interference with a order passed by the Magistrate. With these observations, I proceed to hold the point No.1 in the Negative.

11. **Point No.2** : In view of the above findings given, I proceed to pass the following:

ORDER

The revision petition filed U/Sec.397, of Cr.P.C., is hereby dismissed.

The Order passed by the learned Senior Civil Judge and J.M.F.C., Ankola Forest Crime No. 17/2009-10 dated 5.10.2020 is hereby confirmed.

Send back LCR along with copy of this order to trial court for information.

(Dictated to the Stenographer directly on computer, revised and corrected by me, signed and then pronounced in the Open Court on this the 20th day of November, 2021)

(Ganesh B.,)
2nd Addl. District & Sessions Judge,
Uttara Kannada, Karwar.

Order pronounced in open court
(vide separate order)

ORDER

The revision petition filed
U/Sec.397, of Cr.P.C., is hereby
dismissed.

The Order passed by the learned
Senior Civil Judge and J.M.F.C., Ankola
Forest Crime No. 17/2009-10 dated
5.10.2020 is hereby confirmed.

Send back LCR along with copy of
this order to trial court for information.

2nd Addl. District & Sessions Judge,
Uttara Kannada, Karwar

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Item No.03:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 251 of 2014 (SZ)
(Through Video Conference)

IN THE MATTER OF:

U.K. District Consumers & Citizen Welfare
Association, Karwar,
Uttar Karnataka District and 9 others.



...Applicant(s)

Versus

State of Karnataka,
Rep. by its Chief Secretary,
Department of Environment & Forests,
Bangalore and others.

...Respondent(s)

Date of hearing: 21.12.2021.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Applicant(s): None

For Respondent(s): Ms. Ojas Sivakumar represented
Mr. M.R. Gokul Krishnan for R2

ORDER

1. The above case has been disposed of by this Tribunal by Judgment dated

05.12.2016 with following directions:-

“6. Pursuant to the direction, the Karnataka State Pollution Control Board submitted a scheme for the protection of the iron ore during monsoon period stating that keeping the iron ore heaps for longer period will definitely result in loss of Cargo, degradation of cargo and would lead to Air and Water pollution. It was therefore suggested that action should be taken to dispose the cargo by auction. The Board has also suggested that the following conditions to be imposed at the time of auction.

“(a) Restriction may be imposed on transportation vehicles. Maximum vehicle movement may be restricted to around 50 per day from Belekeri Port and around 25 from Karwar Port.

(b) Movement of transportation vehicles may be restricted during school hours i.e., 8.00 AM to 10 AM and 5.00 M to 7 PM.

(c) Transportation vehicles shall be covered with tarpaulin and the uploaded Lorries/tippers shall be cleaned thoroughly which is causing lot of spillage of iron ore.

(e) Utmost precaution may be taken during the movement of vehicles between stack yard and uploading point to avoid spillage.

(f) Village Road to Belekeri Port area used for transportation of Cargo shall be provided with permanent dust containment facility.

(g) Measures shall be taken to collect spilled iron ore (if any) on

the National Highway and Village Road, which otherwise may cause lot of nuisance to the public travelling on National Highway and Village Road.”

These iron ores were admittedly confiscated by the 12th respondent, Port Officer. Therefore it is their duty to dispose the same and prevent further pollution.

7. While disposing the application, we direct the respondent No. 12, the Port Officer, to take immediate steps to dispose the heaps of iron ore stacked at Karwar and Belekeri Port areas by conducting auction to prevent the Air and Water Pollution. While disposing the iron ore, conditions (a) to (g) referred earlier shall be imposed. The auction should be conducted within a period of six months and the report shall be filed before the Tribunal.

8. The application is disposed accordingly.

2. There was a direction to the Port authorities to complete the auction by six months and submit a report to this Tribunal regarding the same. This direction was issued on the basis of the recommendations made by the Karnataka State Pollution Control Board. Neither the Karnataka State Pollution Control Board nor the Port authorities have filed the reports as directed. That is how the matter has been taken up to today.

3. The respondents 9, 11 and 12 are directed to submit the report to this Tribunal on or before **18.01.2022** by e-filing in the form of searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with

necessary hardcopies to be produced as per rules.

4. The Registry is directed to communicate this order to the 9th respondent/Regional Office, KSPB, 11th respondent/Director of Ports, Uttar Karnataka District and 12th respondent/Port Officer, Uttar Kannada District immediately through e-mail, for their information and also for compliance of the direction.
5. For consideration of compliance report, post on 18.01.2022.

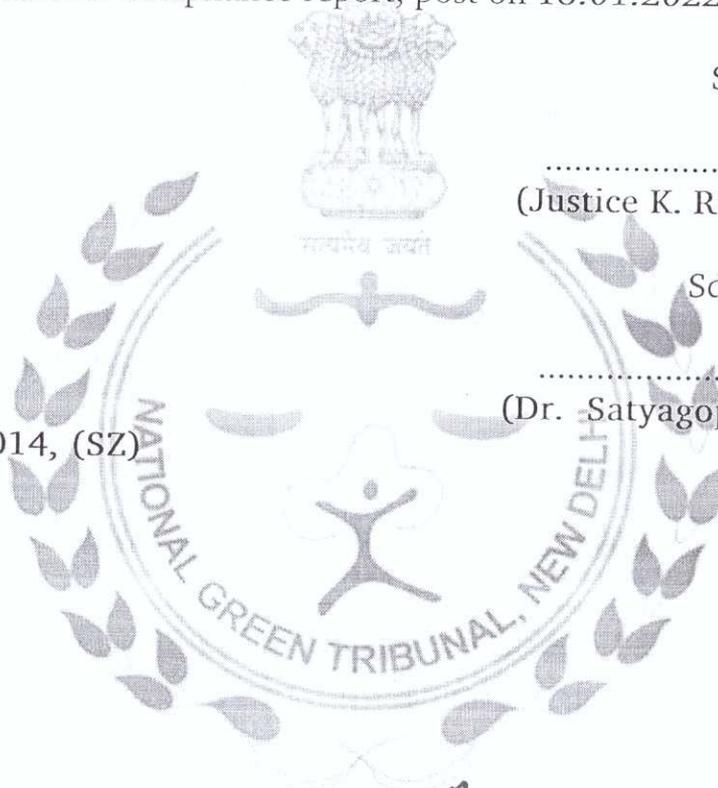
Sd/--

.....J.M.
(Justice K. Ramakrishnan)

Sd/--

.....E.M.
(Dr. Satyagopal Korlapati)

O. A. No.251/2014, (SZ)
21.12.2021, Sr.



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