

(2015) 06 DEL CK 0052

In the Delhi High Court

Case No : LPA 387/2015 and C.M. No. 10951 of 2015

Monnet Ispat and Energy Ltd.

APPELLANT

Vs

Sarda Energy and Minerals Ltd. and Others

RESPONDENT

Date of Decision : 05-06-2015

Acts Referred:

Citation : (2015) 6 AD 506 : (2015) 151 DRJ 221

Hon'ble Judges : Mukta Gupta, J;V.P. Vaish, J

Bench : Division Bench

Advocate : Chetan Sharma, Senior Advocate, Karan Luthra, Sheller Bajaj and Aparna Mehta, for the Appellant; Ratan Singh and J.K. Chaudhary, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Mukta Gupta, J—Aggrieved by the order dated 28th May, 2015 whereby further extension of time was granted to Respondent No. 1 herein M/s. Sarda Energy & Minerals Ltd. (in short "Sarda Energy") for removing the coal stock lying in the mining area till 30th June, 2015, the Appellant Monnet Ispat & Energy Limited (in short "Monnet Ispat") prefers the present appeal. The impugned order dated 28th May, 2015 came to be passed in a writ petition filed by M/s. Sarda Energy being W.P. (C) No. 3337/2015 which was disposed of vide order dated 7th April, 2015 on the consent of M/s. Sarda Energy, the Central Government and Monnet Ispat on the following terms:

"(i) The petitioner will remove the excavated coal lying at the site in issue, not later than four weeks from today. The period of four weeks will come to an end on 07.05.2015.

(ii) In case the petitioner fails to remove the coal lying at the site in issue on or before 07.05.2015, the provisions of clause (e) of order dated 26.03.2015, shall get triggered.

(iii) The petitioner will not impede or cause any hindrance in the functioning of

respondent No. 3, at the site in issue."

2. After the writ petition was disposed of, M/s. Sarda Energy filed an application for extension of time being CM No. 8176/2015 wherein the learned Single Judge did not grant extension on 6th May, 2015, however listed the application for 22nd May, 2015. Against the order dated 7th April, 2015 and 6th May, 2015 M/s. Sarda Energy filed an appeal before the Division Bench of this Court being LPA No. 287/2015 which was withdrawn with liberty to urge all the grounds raised in the appeal before the learned Single Judge on 14th May, 2015. CM No. 8176/2015 was withdrawn by the learned counsel for M/s. Sarda Energy on 22nd May, 2015. However, after the withdrawal of CM No. 8176/2015, another application being CM No. 10257/2015 was filed for extension of time on which the impugned order has been passed wherein the learned Single Judge of this Court considering the submissions of the parties noted that little leeway would have to be given in the particular facts and directed M/s. Sarda Energy to clear the mining area on or before 30th June, 2015 failing which Monnet Ispat would be entitled to trigger the provisions of Clause (e) of the Government of India order dated 26th March, 2015.

3. The Supreme Court vide judgment dated 24th September, 2014 cancelled the Coal Block Allocation of 42 out of 46 coal blocks, however in view of the submissions of the learned Attorney General clarified that the cancellation will take effect only after six months from that date, that is, w.e.f. 31st March, 2015 since the Central Government and the Coal India Limited (in short "CIL") would need some time to adjust to the changed situation and move forward. It was noted that this period will also give adequate time to coal block allottees to adjust and manage their affairs.

4. Harping on this direction of the Supreme Court learned counsel for Monnet Ispat states that the Court has no power to grant extension of time and the Appellant who is the successful bidder cannot be stalled from starting its operations as M/s. Sarda Energy has still not removed its coal lying at the site. M/s. Sarda Energy having withdrawn its earlier application seeking extension, thus, the impugned order be set aside.

5. Learned Additional Solicitor General for the Union of India states that while cancelling the coal blocks there were two kinds of mines before the Hon'ble Supreme Court one being Schedule-II mines where mining operations were going on and other Schedule-III mines which were though allocated and were in the advanced stage of operationalisation but had not been operationalized. The mine in question is a scheduled II mine. As per the terms except for the movables which the erstwhile allottee could bargain with the successful bidder, the machinery etc. were not required to be moved. The vesting order in favour of Monnet Ispat was passed on 23rd April, 2015 to be effective from 1st April, 2015. After the vesting order was passed the prior allottee was required to hand over the site to the successful bidder. As per the time schedule, within three months from 1st April, 2015, Monnet Ispat is required to take the statutory

permissions which it is in the process of taking. Till the statutory permissions are received, though Monnet Ispat can start mobilizing its resources at the site however it cannot start excavation. Monnet Ispat is in possession of the coal mine since 1st April, 2015 after the vesting order. The coal stock which M/s. Sarda Energy has to remove is lying in one area of the coal mine near the washery, rest of the coal mine has been cleared by M/s. Sarda Energy and thus apparently there is no great hindrance in the activity of Monnet Ispat. A charge depicting the time line for various actions has also been placed on record.

6. Heard learned counsel for the parties. From perusal of the impugned order, it is apparent that in view of the exigency that fire broke out in the mine, the magnitude of which is disputed by the two parties and M/s. Sarda Energy was unable to remove the coal lying at the site, the learned Single Judge of this Court granted extension of time till 30th June, 2015.

7. Indubitably, vide order dated 6th May, 2015 when the earlier application was filed, the learned Single Judge did not extend the time and listed the matter on 22nd May, 2015 on which date counsel for M/s. Sarda Energy withdrew the application. However, the withdrawal of the said application did not divest the learned Single Judge of its powers to extend the time for removal of the coal from the mine. Section 6 of the (Coal Mines Special Provisions) Ordinance, 2014) empowers the nominated authority to satisfy the manner of disposal of coal stock on the appointed date with the prior allottee of Schedule-II coal mines. There is no rule which forbids taking into consideration the exigencies and extending the time for removal of the coal from the coal mine. As stated by the learned Additional Solicitor General the possession of the coal mine has already been taken over by Monnet Ispat, grant of statutory permissions are in the process and only a small area is occupied by M/s. Sarda Energy where its coal stock is lying for which time has been granted till 30th June, 2015, we find no illegality in the impugned order, we find no reason to interfere therein. Petition and application are dismissed.