
(2003) 01 SC CK 0019

In the Supreme Court Of India

Case No : Transfer Petition (C) No. 367 of 2002

Nishikant Sukerkar

APPELLANT

Vs

Government of India and Others

RESPONDENT

Date of Decision : 20-01-2003

Acts Referred:

Citation : AIR 2003 SC 2162 : (2003) AIRSCW 398 : (2003) 1 SCALE 370 : (2003) 2 SCC 289 : (2003) 1 Supreme 513

Hon'ble Judges : K. G. Balakrishnan, J;Arun Kumar, J

Bench : Division Bench

Advocate : Anil B. Divan, Dhruv Mehta, Shalini Gupta and Mohit Chaudhary, for the Appellant; Raju Ramachandran, Addl. Solicitor Genl., T.R. and H.L. Aggarwal, S. K. Kulkarni, M.G. Kumar, Khwairakpam Nobin Singh, R.C. Verma, Mukesh Verma, D.B. Mahra and R.N. Paddar, for the Respondent

Final Decision : Dismissed

Judgement

K.G. Balakrishnan, J.—The first petitioner in Civil Writ Petition No. 5648 of 1998 on the file of the High Court of Delhi is the petitioner before us and prays for transfer of the said Writ Petition to the Bombay High Court, Panaji Bench, Goa, to be heard along with Civil Writ Petition No. 268 of 1996 which is pending before that High Court. The petitioners in Civil Writ Petition No. 5648 of 1998 are said to be the legal heirs of one late N.P. Sukerkar. Sukerkar was granted Mining Concession for an area admeasuring 22.0807 hectares under the Portuguese Decree of 1908. The Concession granted to Sukerkar was terminated in 1976. It appears that the third respondent herein, namely, Gomantak Investment Pvt. Ltd., applied for grant of mining area notified by the Goa Govt. on 5.1.1976. The petitioners in Civil Writ Petition No. 5648 of 1998, as legal heirs of N.P. Sukerkar, filed an application before the Govt. of India, Ministry of Mines, to include the Mining concession of late N.P. Sukerkar in the first schedule to Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987. Their application was rejected by the Secretary, Govt. of India, Ministry of Mines, vide order dated 9.9.1998 and Civil Writ Petition No. 5648/98 was filed challenging

the said order passed by the Secretary to the Govt. of India, whereas Writ Petition [C] No. 268 of 1996 was filed by one Ferromet Concentrates praying that the respondent Nos. 1 and 2 therein be directed to notify the area in respect of Sukerkar's mines for re-grant and to dispose of the application filed by the petitioners therein on 9.8.1988. The petitioners therein had also claimed other reliefs.

2. The petitioner in this Transfer Petition submits that the reliefs prayed for in the two Civil Writ Petitions are respect of the Mining Concession granted to late N.P. Sukerkar and any decision passed in Writ Petition [C] No. 268 of 1996 will have a bearing on the decision, if any, to be given in Civil Writ Petition No. 5648 of 1998. The third respondent herein as well as in the Writ Petition (C) No. 5648/98, namely, Gomantak investment Pvt. Ltd. has opposed the Transfer Petition. It is further submitted that Writ Petition (C) No. 268 of 1996 filed by Ferromet Concentrates was dismissed by the High Court and the dismissal was challenged before this Court and that now the matter stands remanded to the High Court for fresh consideration and that the petitioner herein is seeking the transfer of the Writ Petition pending before the Delhi High Court, only to protract the proceedings pending before the Bombay High court, Panaji Bench. It is also alleged by the third respondent that the Transfer Petition is not bona fide and the petitioner is a close business associate of the petitioner in Civil Writ Petition No. 268 of 1996

3. We heard Shri Anil B. Diwan, learned Senior Counsel for the petitioner and also Shri T.R. Andhyarujina, learned Senior Counsel for the respondent. The subject matter and the mining lease involved in both the Writ Petitions have got some connection to the original Mining Concession granted to late N.P. Sukerkar and its subsequent cancellation. If the prayer sought for in Writ Petition (C) No. 5648 of 1998 is allowed, that may have relevance to the matters that are agitated in Writ Petition (C) No. 268 of 1996 on the file of the Bombay High court. But these are all issues to be considered by the High Court and we do not want to comment on those matters. The third respondent, who raised an objection to the Transfer Petition, is a respondent in both the Writ Petitions and they are having business at Panaji, Goa. Therefore, in no way, they are prejudicially affected by the transfer of the Civil Writ Petition No. 5648 of 1998 pending before the Delhi High Court. In the result, we direct that Civil Writ Petition No. 5648 of 1998 pending before the Delhi High Court shall stand transferred to the file of the Bombay High court, Panaji Bench, Goa, to be heard along with Civil Writ Petition No. 268 of 1996 pending before that Court. The Registry of the Delhi High Court shall take urgent steps to send the record of the Civil Writ Petition No. 5648 of 1998 of the Bombay High Court at Panaji. The Transfer Petition is accordingly allowed.