UNION OF INDIA

v.

SANDUR MANGANESE & IRON ORES LTD. AND ORS.

(Review Petition (C) No. 739 of 2012)

IN

(Civil Appeal No. 7944 of 2010)

APRIL 23, 2013

[P. SATHASIVAM AND H.L. DATTU, JJ.]

CONSTITUTION OF INDIA,1950

Art. 137 - Review Petition - Held: Review proceedings are not by way of an appeal; they have to be strictly confined to the scope and ambit of 0.47, r.1 CPC - In the instant case, the error contemplated in the impugned judgment is not one which is apparent on the face of the record, rather the dispute is wholly founded on interpretation and applicability of ss. 11(2) and 11(4) of MMDR Act - In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same - However, the misquoted portion of the Report, owing to clerical mistakes, is deleted from the judgment - Code of Civil Procedure, 1908 - O.47, r.1 - Supreme Court Rules. 1966 - O.40 - Mines and Minerals (Development and Regulation) Act, 1957 - ss. 11(2) and 11(4) - Delay/Laches.

The petitioner-Union of India filed the instant review petition seeking review of the judgment and order dated 13.9.2010 passed in *Sandur Manganese and Iron Ores Ltd.*[1] **It was the case of the petitioner that it could not put forth its view in the case for the reason that copy of the special leave petition was not served upon it and, as such, it could not get an opportunity to be heard in the case. The**

1. *Sandur Manganese and Iron Ores Ltd. vs. State of Kamataka and Ors.* 2010 (11) SCR 240.

A **impugned judgment was mainly challenged on two issues (i) "that the impugned judgment has incorrectly reported the *'Report of the Committee to Review the Existing Laws and Procedures for Regulation and Development of Minerals'*. As a consequence, the ratio of impugned**
B **judgment, which relies on this Expert Committee Report, shall stand erroneous in the eyes of law"; and (ii) that s. 11(2) and s. 11(4) of the Mines and Minerals (Development and Regulation Act, 1957) should be applicable to both virgin and previously held areas.**

C **Disposing of the petition, the Court**

HELD: 1.1 The details furnished in I.A. No. 1 of 2011 filed for condoning the delay of 320 days in filing the review petition sufficiently prove that steps were taken at
D **various levels in the Ministry of Mines. In view of the same, the delay is condoned. [para 6] [1050-A]**

1.2 It is true that the Expert Committee's Report has been misquoted to the extent of adding four lines, which
E **was originally not a part of the report. Thus, this Court has the power to modify the impugned judgment to the extent of deletion of the misquoted statement under review jurisdiction. Therefore, the portion of para 2.1.21 of the report which is misquoted in the impugned**
F **judgment owing to clerical mistake, is deleted. Consequently, a portion of para 51 of the impugned judgment is also deleted. [para 17, 19 and 20] [1053-D-E; 1054-B-C]**

1.3 However, it cannot be said that the impugned
G **judgment is erroneous on the face of law merely because the Expert Committee Report was misquoted. In the considered view of this Court, the impugned judgment stands good of reason even without these misquoted lines as well. [para 20] [1054-C-D]**

H

Sandur Manganese and Iron Ores Ltd. vs. State of Karnataka and Ors. **2010 (11) SCR 240 = 2010(13) SCC 1 - referred to.**

2.1 With regard to the second issue that both s.11(2) and s. 11(4) of the Mines and Minerals (Development and Regulation) Act, 1957 should be applicable to both virgin and previously held areas, the same has been well reasoned in the impugned judgment. The error contemplated in the impugned judgment is not one which is apparent on the face of the record rather the dispute is wholly founded on the point of interpretation and applicability of ss. 11(2) and 11(4) of the MMDR Act. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of O. 47, r. 1 of CPC. Therefore, in review jurisdiction, the court shall interfere only when there is a glaring omission or patent mistake or when a grave error has crept in the impugned judgment, which is not so in the instant case.
[para 21, 23 and 24] [1055-C-F]

Parsion Devi & Ors. vs. Sumitri Devi & Ors. **1997 (4) Suppl. SCR 470 = (1997) 8 SCC 715 - relied on.**

Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulose Athanasius & Ors., **(1955) 1 SCR 520 - referred to.**

Chhajju Ram vs. Neki, **AIR 1922 PC 112 - referred to.**

2.2 Keeping in view the provisions of Art.137 of the Constitution, read with O.40 of Supreme Court Rules and O.47, r.11(1), CPC, the petitioner-Union of India has not

A **invoked any valid ground for exercising the power under review jurisdiction. Further, after the judgment in Sandur, another coordinate Bench of this Court followed the ratio decidendi in Monnet Ispat and Energy Ltd. However, a further period of 4 months is granted to comply with the**
B **directions issued in the impugned judgment. [para 28 and 30] [1057-B-E]**

Monnet Ispat and Energy Ltd. vs. Union of India & Ors. **2012 (7) SCR 644 = 2012 (11) SCC 1 - referred to.**

C **Case Law Reference:**

2010 (11) SCR 240	**referred to**	**para 1**
1922 PC 112	**referred to**	**para 13**
D **(1955) 1 SCR 520**	**referred to**	**para 13**
1997 (4) Suppl. SCR 470	**relied on**	**para 22**
2012 (7) SCR 644	**referred to**	**para 28**

CIVIL APPELLATE JURISDICTION : Review Petition
E (Civil) No. 739 of 2012 in C.A. No. 7944 of 2010.

Goolam E. Vahanvati, AG, F.S. Nariman, Mukul Rohatgi, D.L.N. Rao, Abhishek Manu Singhvi, Krishnan Venugopal, L.N. Rao, P.S. Narsimhan, K.K. Venugopal, Devdatt Kamat,
F Anoopam Prasad, Anandh Kannan, Mohd. Nizam Pasha, Tara Narula, D.S. Mahra, Sunil Gogra, M.P. Shorawala, S.K. Kulkarni, Ankur S. Kulkarni, Vishal Gupta, Kumar Mihir, Sidhartha Singh, Rajat Jasiwal, Sanjeev Kumar, (for Khaitan & Co.), Anitha Shenoy, Vishruti Vijay, Uday Tiwary, A.
G Raghunath for the appearing parties.

The Judgment of the Court was delivered by

P. SATHASIVAM, J. 1. This review petition has been filed by the Union of India, Ministry of Mines, seeking review of the

H

judgment and order dated 13.09.2010 passed in *Sandur Manganese & Iron Ores Ltd. vs. State of Karnataka & Others,* 2010 (13) SCC 1 (Civil Appeal No. 7944 of 2010 and Civil Appeal Nos. 7945-54 and 7955-61 of 2010). A

2. In *Sandur* (supra), this Court had interpreted various provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (in short "the MMDR Act") and the Mineral Concession Rules, 1960 (in short "the MC Rules") framed thereunder. It is the grievance of the petitioner herein that this review is instituted since the Ministry of Mines, Government of India, could not put forth its view on the interpretation of the provisions of the MMDR Act in *Sandur* (supra) for the reason that the copy of the special leave petition was not served upon the review petitioner which is a necessary and relevant party to the subject-matter in issue/dispute and the review petitioner did not get an opportunity of being heard. B C D

3. It is also brought to our notice that vide notification dated 30.01.2003, the Ministry of Coal and Mines was bifurcated into separate Ministries since the petitioners in various SLPs furnished the name of the Ministry as "Ministry of Coal and Mines" in all the matters and according to them, it was not noticed by the Department concerned, namely, the Department of Mines. E

4. We are conscious of the fact that the principles of natural justice guarantee every person the right to represent his/her case in the court of law, wherein the final verdict of the court would adversely affect his/her interest. Considering the above principle, this Court, vide order dated 04.10.2012, granted the opportunity to the Union of India to represent its case. F G

5. Before considering the claim of the Union of India about acceptability or otherwise of various conclusions in the impugned judgment, we have to consider whether the petitioner has shown sufficient cause for condoning the delay of 320 days. H

A 6. The details furnished in I.A. No. 1 of 2011 filed for condoning the delay in filing the above review petition sufficiently prove that steps were taken at various levels in the Ministry of Mines, accordingly, we accept the reasons furnished therein. In view of the same, the delay is condoned.

B 7. Taking note of the reasons stated for the delay and the stand of the Department that the Ministry concerned, namely, Department of Mines was not duly projected and represented before this Court, we heard Mr. Goolam E. Vahanvati, learned Attorney General for the review petitioner, on merits, particularly, C with reference to the points formulated for consideration and ultimate conclusion arrived therein and Mr. Fali S. Nariman, Mr. Mukul Rohatgi, Mr. A.M. Singhvi, Mr. Krishnan Venugopal, Mr. L.N. Rao, learned senior counsel for the contesting respondents and Ms. Anita Shenoy, learned counsel for the D State of Karnataka.

8. Now, let us consider whether the review petitioner has made out a case for reviewing the judgment and order dated 13.09.2010 and satisfies the criteria for entertaining the matter E in review jurisdiction.

Review Jurisdiction

9. Article 137 of the Constitution of India provides for review of judgments or orders by the Supreme Court which F reads as under:

> "Subject to the provisions of any law made by Parliament or any rules made under Article 145, the Supreme Court shall have power to review any judgment pronounced or G order made by it."

10. Further, Part VIII Order XL of the Supreme Court Rules, 1966 deals with the review and consists of four rules. Rule 1 is important for our purpose which reads as under:

H "The Court may review its judgment or order, but no

application for review will be entertained in a civil proceeding except on the ground mentioned in Order XLVII Rule 1 of the Code and in a criminal proceeding except on the ground of an error apparent on the face of the record." A

11. Order XLVII, Rule 1(1) of the Code of Civil Procedure, 1908 provides for an application for review which reads as under: B

"Any person considering himself aggrieved-

a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred, C

b) by a decree or order from which no appeal is allowed, or

c) by a decision on a reference from a Court of Small Causes, D

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, E or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order." F

12. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him; G

ii) Mistake or error apparent on the face of the record;

iii) Any other sufficient reason H

A 13. The words "any other sufficient reason" has been interpreted in *Chhajju Ram vs. Neki,* AIR 1922 PC 112 and approved by this Court in *Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulose Athanasius & Ors.,* (1955) 1 SCR 520, to mean "a reason sufficient on grounds at least B analogous to those specified in the rule". With the above statutory provisions, let us discuss the claim of the petitioner-Union of India.

Discussion

C 14. The respondent - Company (Sandur Manganese & Iron Ores Ltd.) by filing S.L.P.(C) No. 22077 of 2009 (converted into Civil Appeal No. 7944 of 2010) challenged before this Court the final judgment and order dated 05.06.2009 passed by the High Court of Karnataka at Bangalore in Writ Appeal No. 5084 of 2008 and allied matters wherein the High Court D dismissed the appeals and held that the decision of the State Government in not recommending mining lease to the Sandur Manganese & Iron Ores Ltd. and instead preferring two other Companies for grant of mining lease does not suffer from any irregularity, illegality, discrimination, arbitrariness, E unreasonableness or violative of principles of natural justice.

15. This Court, in *Sandur* (supra), allowed the appeal filed by Sandur Manganese & Iron Ores Ltd. and quashed the impugned order dated 05.06.2009 passed by the Division F Bench of the High Court of Karnataka in Writ Appeal No. 5084 of 2008 etc. etc. as well as the decision of the State Government dated 26/27.02.2002 and the subsequent decision of the Central Government dated 29.07.2003 and directed the State Government to consider all applications afresh in light of this Court's interpretation of Section 11 of the MMDR Act and G Rules 35, 59 and 60 of the MC Rules in particular, and make recommendation to the Central Government within a period of four months.

16. Consequently, the UOI has raised mainly two issues H on merits of the case, thereby challenging the impugned

judgment. They are:-

(1) Firstly, that the impugned judgment has incorrectly reported the *'Report of the Committee to Review the Existing Laws and Procedures for Regulation and Development of Minerals'*. As a consequence, the ratio of impugned judgment, which relies on this Expert Committee Report, shall stand erroneous in the eyes of law.

(2) Secondly, Section 11(2) and Section 11(4) should be applicable to both virgin and previously held areas.

Now we shall discuss the above mentioned issues respectively.

First Contention:

17. The first contention of learned Attorney General is two fold viz., that the Expert Committee's Report was misquoted and as a result the impugned judgment which relies on the same, shall stand erroneous on the face of law. We accede to the above contention partially. It is true that the Expert Committee's Report has been misquoted to the extent of adding four lines, which was originally not a part of the report. Thus, this Court has the power to modify the impugned judgment to the extent of deletion of the misquoted statement under review jurisdiction.

18. The Report of the Committee to Review the Existing Laws and Procedures for Regulation and Development of Minerals, referred in the impugned judgment reads as under:

Para 2.1.21 of the Report:

"49..... The concept of first-come, first-serve has become necessary in view of the fact that the Act does not provide for inviting applications through advertisement for grant of PL/ML in respect of virgin areas. No doubt, there is provision in Rule 59 of the MC Rules for advertisement of an area earlier held under PL/ML with provision for relaxation. **In this background, the Committee**

A **recommended the introduction of the proviso to S. 11(2) permitting calling for applications by way of a notification. There is a distinction between virgin areas and areas covered under Rule 59 and S. 11(2) ought to be interpreted to cover virgin areas alone."**

B 19. Hence, the above underlined portion of the report which is misquoted in the impugned judgment owing to clerical mistake requires to be deleted, accordingly, we do so.

20. However, we are not in agreement with learned C Attorney General that the impugned judgment is erroneous on the face of law merely because the Expert Committee Report was misquoted. In our considered view, the impugned judgment stands good of reason even without these misquoted lines as well. Hence, mere deletion of these lines along with removal of certain portion of para 51 of the impugned judgment will clarify D the mistake.

Portion of Para 51 of *Sandur* (supra) to be deleted:

"51.....The analysis of the Report makes it clear that the main provision in Section 11(2) applies to "virgin areas". E It further makes it clear that to the extent that an area that is previously held or reserved would require a notification for it to become available."

Thus the first contention is considered as per the above terms.

F **Second Contention:**

21. With regard to the second contention that both Section 11(2) and Section 11(4) should be applicable to both virgin and previously held areas, the same has been well reasoned in the impugned judgment and the mere fact that different views on G the same subject are possible is no ground to review the earlier judgment passed by this Bench.

22. It has been time and again held that the power of review jurisdiction can be exercised for the correction of a mistake and not to substitute a view. In *Parsion Devi & Ors. vs. Sumitri Devi* H

& Ors., (1997) 8 SCC 715, this Court held as under:- A

> "9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule I CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise". B C

23. This Court, on numerous occasions, had deliberated upon the very same issue, arriving at the conclusion that review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC. D

24. In the present case, the error contemplated in the impugned judgment is not one which is apparent on the face of the record rather the dispute is wholly founded on the point of interpretation and applicability of Section 11(2) and 11(4) of the MMDR Act. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction. Hence, in review jurisdiction, the court shall interfere only when there is a glaring omission or patent mistake or when a grave error has crept in the impugned judgment, which we fail to notice in the present case. E F G

25. For the above reasons, the second ground for review petition is liable to be rejected.

26. Further, the contention regarding MoU entered into by the State Government and investments made thereunder is concerned, this Court has noticed this fact and rejected the H

A contention made by the respondents in *Sandur* (supra). It is relevant to point out that the State of Karnataka is stated to have committed to JSW Steels Limited on 11.10.1994 for grant of mining leases but the same has been invoked by JSW Steels after a lapse of 8 years and more precisely, after 5 years of B commencing commercial operations in its steel plant by making an application on 24.10.2002. Once an area is notified for re-grant and applications are invited from the mining public for grant of mining lease, the applications must be disposed of in terms of the provisions of the MMDR Act and the MC Rules C and not de hors. In para 80 of *Sandur Manganese* (supra), this Court has held as follows:

> "80. It is clear that the State Government is purely a delegate of Parliament and a statutory functionary, for the purposes of Section 11(3) of the Act, hence it cannot act D in a manner that is inconsistent with the provisions of Section 11(1) of the MMDR Act in the grant of mining leases. Furthermore, Section 2 of the Act clearly states that the regulation of mines and mineral development comes within the purview of the Union Government and not the E State Government. As a matter of fact, the respondents have not been able to point out any other provision in the MMDR Act or the MC Rules permitting grant of mining lease based on past commitments. As rightly pointed out, the State Government has no authority under the MMDR F Act to make commitments to any person that it will, in future, grant a mining lease in the event that the person makes investment in any project. Assuming that the State Government had made any such commitment, it could not be possible for it to take an inconsistent position and G proceed to notify a particular area. Further, having notified the area, the State Government certainly could not thereafter honour an alleged commitment by ousting other applicants even if they are more deserving on the merit criteria as provided in Section 11(3).

H

Hence, the petitioner cannot be permitted to re-argue the very same point.

27. Regarding the issue of Mineral Policies, this Court has already held in *Sandur* (supra) that in view of the specific parliamentary declaration as discussed and explained by this Court in various decisions, there is no question of the State having any power to frame a policy de hors the MMDR Act and the MC Rules.

28. In view of the above, the petitioner-Union of India has not invoked any valid ground for exercising the power under review jurisdiction. In addition to the same, after the judgment in *Sandur* (supra), another coordinate Bench of this Court followed the ratio decidendi in *Monnet Ispat and Energy Ltd. vs. Union of India & Ors.*, 2012 (11) SCC 1.

29. For the aforesaid reasons, we are unable to accept any of the contentions raised by Learned Attorney General, therefore, the review petition is disposed of by deleting the misquoted lines in the Expert Committee Report.

30. In view of the above order and the directions issued by us in para 98 of *Sandur* (supra), we grant a further period of 4 months from the date of receipt of copy of this order to comply with the same.

31. In view of the dismissal of the review petition filed by the Union of India, the impleadment applications stand dismissed.

R.P. Review Petition disposed of.