

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

CA-817(PB)/2018

IN THE MATTER OF:

Rio Minto Minerals Development Ltd. Applicant/petitioner
v.
Rio Minto Orrisa Mining Ltd. & Ors. Respondent

Order under Rule 11 read with Rule 16 of NCLT

Order delivered on 19.09.2018

Coram:

**CHIEF JUSTICE (RTD.) M. M. KUMAR,
HON'BLE PRESIDENT**

**SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)**

For the Applicant/petitioner: Mr. Sudipto Sarkar, Mr. Robin R. David,
Mr. Febin M. Varghese, Advs.
For the respondent : Mr. R.K Mehta, Ms. Himanshi Andley, Advs. for
R2.
Ms. Liza Baruah, Ms. Ayushi Kumar, Advs. for
R1.
Mr. Shashank Bajpai, Ms. Shakun Sudha,
Advs. for R3.

ORDER

This is an application with a prayer to transfer CP No. 59 of 2004 titled as Rio Tinto Minerals Development Ltd. v. Rio Minto Orrisa Mining Ltd. & Ors. presently pending before NCLT, Kolkata Bench to the Principal Bench, NCLT, New Delhi. It is appropriate to mention that vide notification dated 15.07.2018 issued by the Ministry of Corporate Affairs, Union of India now territorial jurisdiction has also been conferred in respect of companies registered with ROC, Orrisa in the Cuttack Bench of NCLT. However, the Cuttack Bench is yet to start functioning as there is acute shortage of Members.

2. The CP No. 59/2004 was transferred to jurisdictional Bench of NCLT Kolkata and is pending consideration before the Kolkata Bench, NCLT. In the order dated 31.07.2018 passed by the Kolkata Bench, NCLT, it has been observed that the matter would be heard by Cuttack Bench and there would be territorial jurisdiction issued otherwise. In other words, the Kolkata Bench, NCLT felt that all matters which fall within the territorial jurisdiction of



Cuttack Bench, NCLT the hearing should be at Cuttack only. It has not been appreciated that the Cuttack Bench was yet to start functioning.

3. Notice of the application.

4. Ms. Lisa Baruah learned counsel for Respondent No. 1 and Mr. R.K Mehta learned counsel for Respondent No. 2 accepts notice.

5. Learned counsel for the respondent No. 1 has argued that she has no objection if the matter is heard by Kolkata Bench of NCLT. However, on behalf of respondent No. 2 Mr. Mehta has urged that once the territorial jurisdiction has been conferred on the Cuttack Bench of NCLT this matter alone should not be singled out for hearing at Kolkata. It has also been urged that a winding up petition has been filed by respondent No. 2 which is pending since 2004 before the Odisha High Court. It has been clarified that the winding up petition is yet to be admitted.

6. Having heard learned counsel for the parties, we are of the considered view that in the absence of any functional bench at Cuttack it may not be conducive to post this matter for hearing before NCLT Bench, Cuttack. Therefore, we direct that the matter shall be heard by NCLT Bench, Kolkata on the adjourned date i.e. 05.11.2018/or thereafter and the issuance of notification setting up Cuttack Bench of NCLT shall not constitute a valid ground for not hearing the petition at Kolkata.

7. The application stands disposed of.

Sd/-

(M. M. KUMAR)
PRESIDENT

Sd/-

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)