



MOOT PROPOSITION¹

1. The Republic of Minas Tirith is the world's third most populous country with a population of more than 1.1 billion. It is located centrally on Earth with everything a nation could ask for from nature. The country is rich in mineral ores which include magnetite, steel, coal and magnate. The country has an area of 3,287,590 sq. km. Minas Tirith has signed all the major international conventions and treaties relating to environmental law until the present date but has ratified only those conventions and treaties that were entered into until the completion of the year 2003.

2. Natural resources are found throughout the country at varied levels. In the State of East Pradesh which has a coastline of 1,000 km, the natural resources including iron ore and coal are found in abundance. This is the largest State in the country and is located on the eastern coast. Around 40% of the State's population consists of tribal people who have been living in the forests and other parts of the State since time immemorial. The State's oldest literary work called "Eastory" speaks about this tribal population with great importance. This is dated to be at least 3,000 years old. The main occupation of the tribal people is agriculture and hunting in the forest region, and handicrafts and handiworks in the neighboring city. Mr. Gandalf is the leader of the tribal people who have always fought for their rights and upliftment.

3. The Central Government of the Republic of Minas Tirith was elected through the general elections in May 2015. The main agenda of the Government was to increase the economic development and provide job opportunities. True to its word, the Government has taken several measures to bring in foreign investment and develop several public and private sector areas including mining. The Government decided to lease out the mines to increase its GDP and industrial growth. This also ensures that the Government has acquired enough iron for military purposes, in which the country is lacking. There is an economic depression throughout the world and the country needs to keep itself afloat in the sinking world market. With the approval of the Cabinet, the Government has notified the "**New Mining Deal, 2015**" which is its master plan on mining. Subsequent to the plan, it had auctioned iron mines in blocks to several foreign mining giants. Considering the importance of the country and its ores, the mining ores

¹ The Moot Proposition has been drafted by Mr. Diwaagar R.S., currently a Legal Intern at the City of New York Business Integrity Commission, New York and an alumnus of School of Excellence in Law, Chennai (2012). Any attempts to contact him shall result in immediate disqualification of the participating team.



auctioned earned 200% more than the expected rate and was a huge profit for the country. The auction was won by M/s. Marvolo Miners Inc. The mining work commenced on June 1st, 2015.

4. The Ministry of Environment and Forest (MoEF) gave the clearance for mining activities. However, as commonly known, it is not without corruption. The MoEF followed procedural requirements and all the required assessments were carried out before granting the license. The State of East Pradesh was not consulted in the entire process by the Central Government or by the Company. There was no assessment by the State Environmental Impact Assessment Agency (SEIAA) or by the Pollution Control Board (PCB). At this point in time the Government in the State of East Pradesh belonged to the same party as that of Central Government. The State Government raised no issues about it. The Chief Minister participated in the opening ceremony of the mining activities and thanked the Central Government for its quicker implementation.

5. Marvolo is a world leader in mining from a western country called District 12. They mine in more than 25 countries. In about 13 countries they have been accused of violating their licenses. They have also been alleged of being responsible for careless mining and displacement of the tribal people in those countries. All of these are strong allegations but have never been proved. They admitted at some instances to have used inferior technology and methods in mining than the advanced one available.

6. In East Pradesh, Marvolo's license was restricted to iron blocks A, B and C. There are other blocks D, E and F which were not licensed and were to be left untouched. It is believed that mining these unlicensed blocks may cause a huge environmental hazard to the local population and also affect the existence of the forest. The mining in the blocks A, B and C was also permitted only upto a depth of 100 feet. The major concentration of the tribal people is in and around these mines. There is a huge forest known as The Burrow which covers half of the mine and runs beyond the boundary of the State. This is the greatest forest reserve the State and the country have. It houses several precious animals which are on the verge of extinction. Seasonal birds are known to migrate here from foreign countries. There is also a river running along the outer edge and within The Burrow which is the only source of clean water to the whole State.



7. Marvolo mined in blocks A, B and D. They left C untouched. This was only identified by a news reporter's secret investigation. The report further alleged that they have mined more than 125 feet in the said blocks. This created a huge controversy in the State. Meanwhile, it was observed that the tigers in the forest had reduced by 20% in the last 2 months and that the migratory birds which were to arrive in the particular season were not seen. There were only 10% of the regularly visiting migratory birds. The river water was polluted with all the mining wastes which could have been avoided if a better technology had been used. The tribal people started relocating as their habitat was now changed. There was increase in air pollution and soil erosion. More importantly thousands of workers and other people who visited the area started intruding into the peaceful living of the tribal people. Deforestation of a huge area of the forest was also seen. However, the deforestation is expected to have happened during mining activities and was not against the licenses. The new reports are unclear if these were the results of alleged illegal mining in block D.

8. The matter was discussed politically. Mr. Percival Brian who was an independent candidate campaigning for the elections filed a PIL before the High Court of East Pradesh against the whole mining activity and sought a criminal case against Marvolo for violations. The Court had doubts on the *locus standi* and the jurisdiction for the PIL. However, the court ordered SEIAA to conduct an investigation and file a report of the status.

9. The SEIAA took only 2 days to investigate and held a press conference wherein it was informed that more than 100 feet was mined. Block D was mined violating the license and its investigation was not sufficient to see if the block D mining resulted in environmental changes. It also categorically announced that the license should not have been granted to any of these mining blocks as they critically affect the tribal population and the environment. The Agency also conceded that an environmental impact assessment before the beginning of license would have prevented such problems. However, this report was not filed in the appropriate High Court as it was a weekend.

10. Looking at the increased trouble that had been caused, the National Green Tribunal (NGT) convened a forum on Saturday night and granted a *suo motu* injunction against any further mining and ordered the mine to be sealed until further orders.



11. Aggrieved by this and the High Court PIL, Marvolo decided to approach the Supreme Court of Minas Tirith. It raised the following issues:

- a. The NGT does not have *suo motu* powers and hence its orders are unconstitutional.
- b. The PIL petitioner has a vested interest and he is expected to contest in the elections. Hence he does not have the *locus standi* to file a PIL.
- c. A criminal case registration cannot be initiated through a PIL.

12. The Supreme Court found this matter to be of great importance and decided to take the main case and decide it with finality. It had thus transferred all the cases to the Supreme Court for a special hearing and the final hearing has been posted for November 1st, 2015. It has sought the parties to address the following issues:

- a. Whether the NGT has *suo motu* powers?
- b. Whether there was a criminal violation of mining license and whether it caused the environmental degradation?
[If there are criminal violations, the Court is interested in hearing which legislations have been violated and it also would like to hear arguments to see if these violations are criminal or merely contractual in nature]
- c. Whether the mining in the area is against environmental safety and violates the rights of the tribal people?
[The Court wishes to hear scientific arguments on the validity and impact of the New Mining Deal, 2015 permitting a license in the area]

13. After passing the orders, in the evening the Supreme Court gave the following notification:

“It is hereby ordered that the Petitioners shall be M/s. Marvolo Mining Company and the Central Government of the Republic of Minas Tirith. The Respondents shall be the State of East Pradesh represented by the SEIAA, Mr. Percival Brian. If any of the parties contest their addition or wish to add an extra party they shall contest the same during the arguments.”

NOTE:

- i. The political structure, legal system and legislation of the Republic of Minas Tirith are *in pari materia* with that of the Republic of India.



- ii. The list of issues is merely illustrative. Parties may feel free to construct their own issues and present arguments for the same which may enable the Supreme Court to render a final and binding decision.
- iii. The judgments of any Indian Court may have persuasive value. The judgments delivered by 3 judges or higher of the Supreme Court of India shall be binding.

DISCLAIMER:

The material in the Moot Proposition is not intended to and does not attempt to resemble any incident or any person living or dead. All material in the problem is fictitious and any resemblance to any incident or person, if any, is not intended, but merely co-incidental.

