

Row clouds Burrup plant

Claims by partner and shareholder dispute threatens to mire company

JOHN PHACEAS

The future of the \$700 million Burrup Fertilisers ammonia project near Karratha, already under a cloud because of a looming gas supply crisis, is in the hands of the courts amid a bitter dispute between shareholders and former management.

Burrup Fertilisers shareholder and former managing director Vikas Rambal has launched a legal action in the WA Supreme Court, making a series of allegations against his one time close business associate Pankaj Oswal and Mr Oswal's family companies.

Mr Rambal claims in his Supreme Court action that improper payments had been made to third parties associated with Oswal, management had engaged in deception and there was a risk of Burrup Fertilisers becoming insolvent.

He also claims that mismanagement by the project's Indian owners, Oswal Group, had contributed to a number of safety breaches at the plant, which is a showpiece of the State Government's push to develop a petrochemical industry in the State's North-West.

Meanwhile Norwegian fertilisers giant Yara International, which acquired a 30 per cent stake in the project for \$US100 million early last year, has this month sought court orders that would force Oswal to sell its 55 per cent stake in the group.

Details of the dispute between Mr Rambal and Mr Oswal, the Burrup Fertilisers chairman and trustee of the Oswal Group's holding company,

was revealed in an interim ruling by Justice Rene Le Miere in the WA Supreme Court published this week.

Burrup Fertilisers, one of the world's biggest ammonia plants, is owned by Burrup Holdings, of which Mr Rambal holds 15 per cent, Yara holds 30 per cent and Oswal holds 55 per cent.

Justice Le Miere dismissed Mr Rambal's application to have Burrup Fertilisers placed in the hands of receivers, because Mr Rambal's central allegations against the Burrup Fertilisers and Oswal would be tested when the main action is heard at trial in early February.

He said that appointing receivers in the meantime could result in substantial loss and damages for the project.

The judgment gives a detailed summary of the allegations surrounding the case.

Mr Rambal was allegedly sacked in late April shortly after he told Mr Oswal that Burrup Fertilisers should be reimbursed for money used to pay over \$US15 million in debts owed by a subcontractor to the project, Paramount (WA).

Mr Rambal claims Paramount is owned and controlled by parties related to the Oswal Group. Yet Mr Oswal claims Mr Rambal controls Paramount.

Mr Rambal subsequently launched legal action alleging that Oswal had acted contrary to the interests of all shareholders in the project.

Mr Rambal also alleges that the project contractors, including Paramount, should have been pursued for damages over the delayed completion of the project in June, arguing that the deadline for practical completion had been validly extended under the terms of the contract only until mid-February.

Paramount's performance under the contract was secured by guaran-

tees from both Oswal Chemical and Fertilisers and Mr Oswal personally.

Justice Le Miere said the Oswal interests had argued that Mr Rambal had signed the cheques used to pay Paramount's debts. The conflicting claims over who controlled Paramount would be considered at next month's trial.

Though a report by accountants hired by Mr Rambal had identified possible anomalies in Burrup Fertilisers' accounts, Justice Le Miere said there was no evidence to suggest the company would become insolvent before the case goes to trial.

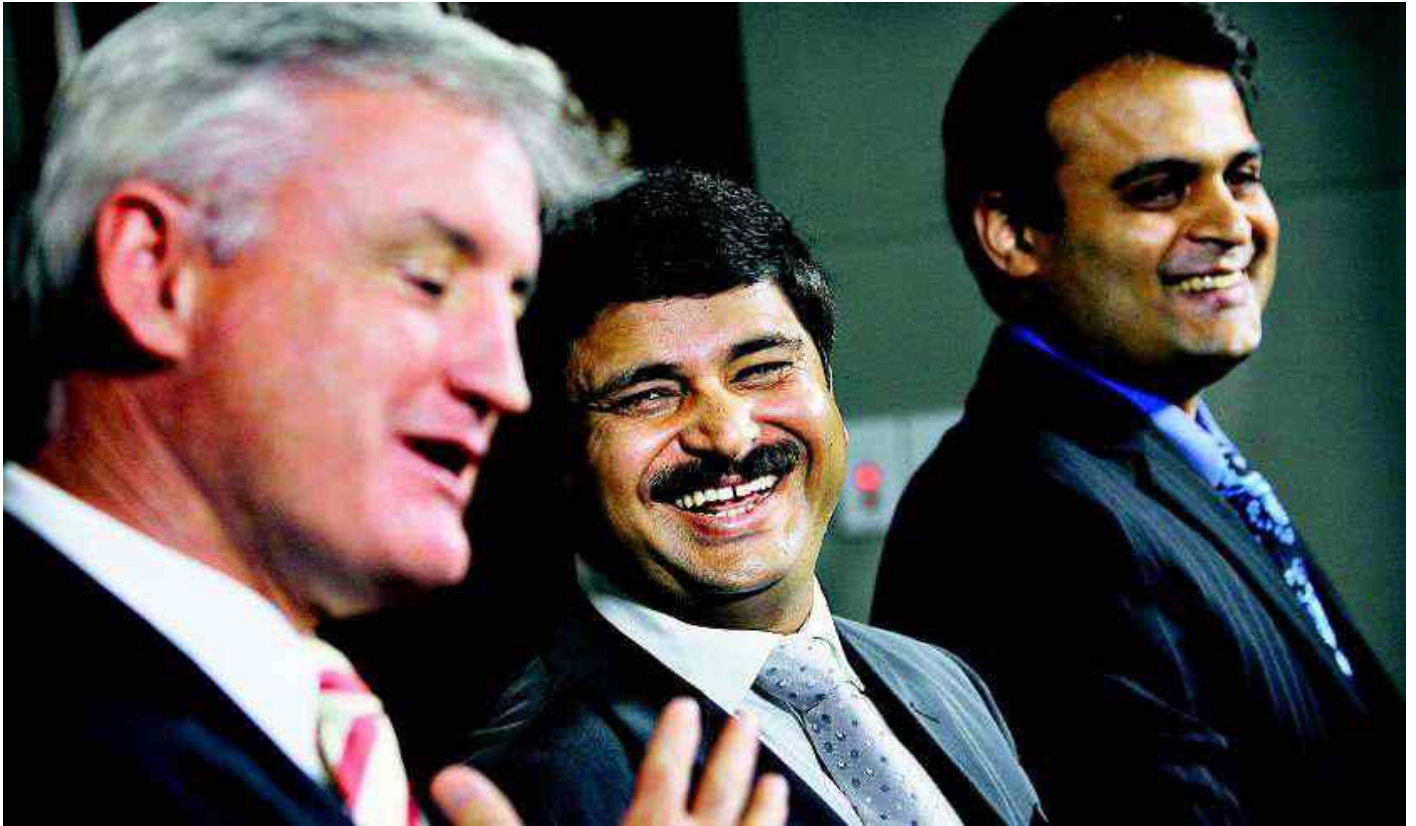
However, he said there was evidence to support Mr Rambal's allegation that records relating to the practical completion date of the project had been falsified and that other allegedly misleading statements may have been made by project management to Mr Rambal.

The defendants would have a chance to answer those "serious allegations" at next month's trial, Justice Le Miere said.

Mr Rambal also alleges that management practices after his exit had contributed to a number of safety incidents, including the temporary venting of hot potassium carbonate solution in May and a serious ammonia spill in August.

Justice Le Miere said the evidence raised a number of concerns, but that he did not believe there was any imminent safety risk to the plant or people in the vicinity.

The legal fight comes as the project seeks to shore up gas supplies following a warning from the Apache Energy-led Harriet gas venture that it lacks sufficient reserves to fulfil its \$1 billion-plus 20 year supply contract. Harriet partner Tap Oil told Burrup Fertilisers that gas supplies might be affected as soon as early next month.



Early promise: Vikas Rambal, centre, Premier Alan Carpenter and Pankaj Oswal were all smiles on completion of the ammonia plant in April