

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

TUESDAY THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 27310 OF 2015

Between:

G. Sri Lakshmi & Ors. ... Petitioners

Vs.

State of Andhra Pradesh
Rep.by its Prl. Secretary,
Industries & Commerce Department,
Secretariat, Hyderrabad & Ors. ... Respondents

Counsel for the Petitioners: Sri G. Raja Babu
Smt.N. Shoba

Counsel for the Respondents: GP for Mines & Geology [AP]
GP for Revenue [AP]

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE A.V. SETHA SAI

WRIT PETITION NO. 27310 OF 2015

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ORDER:
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This writ petition is filed under Article 226 of the
Constitution of India for the following relief :

“To declare the action of respondents 2 to 5 in seizing the vehicles bearing Nos. {1] AP-05-TC-3338 [2] AP-05-TD-3388 and [3] AP-05-TD-3337 of the first petitioner [1] AP-05-TD-2779 [2] AP-05-TD-2239 [3] AP-05-TC-4449 and [4] AP-05-TF-5999 of the second petitioner, Tata Hitachi – Ex200 Poclain invoice No. 12509531 of the third petitioner and Tata Hitachi Ex200 Poclain invoice No.268 belongs to fourth petitioner, when the vehicles were stationed in survey No.55-2B of Vemulapalli village, Mandapeta Mandal, East Godavari district and not releasing the same as arbitrary, illegal, unjust and in violation of principles of natural justice and contrary to the provisions of AP. Minor Mineral Concession Rules, 1966 and consequently to direct the respondents 2 to 5 to release the vehicles forthwith and to pass such other suitable orders as this court may deems fit and proper in the interests of justice.”

2. Heard Smt. N.Shoba, learned counsel representing Sri G.Raja Babu and the learned Government Pleaders for Mines and Geology and Revenue for the respondents.

3. Smt. N. Shoba, learned counsel representing Sri G.Raja Babu, would submit that the petitioners are only the owners of the vehicles; the respondents allege that the vehicles were engaged in

illicit quarrying of gravel, for which the petitioners cannot be faulted; and, in similar circumstances, this Court had passed an order in WP.No. 32849 of 2011 dated 20/12/2011 directing release of the vehicles subject to fulfillment of certain conditions.

3. Under Section 21 [4] of the Mines and Minerals [Development and Regulation] Act, 1957 {for short, the 'Act'} whenever any person transports or causes to be transported, without any lawful authority, any mineral from any land, and for that purpose, uses any vehicle, such vehicle shall be liable to be seized by an officer or authority specially empowered in this behalf. Sub-section (4) (a) of Section 21 of the Act stipulates that any vehicle, seized under sub-section [4], shall be liable to be confiscated by an order of the court competent to take cognizance of the offence under sub-section (1), and shall be disposed of in accordance with the directions of such court.

4. Following the order passed by this Court in WP.No. 32849 of 2011 dated 20/12/2011, this writ petition is disposed of directing release of the subject vehicles subject to the petitioner depositing the normal seigniorage fee payable with respect to the mineral seized. The concerned Assistant Director of Mines and

Geology shall assess the amount of seigniorage fee recoverable.

Thereafter, subject to further enquiry and investigation, the petitioners vehicles shall be released on payment of the amount so determined by the Assistant Director of Mines and Geology. The petitioners shall also furnish an undertaking before all the respondents that they will produce the vehicles as and when required for the purpose of further enquiry or investigation or before the court empowered to take cognizance of the offence under section 21 [4] [a] of the Act. The petitioners shall not alienate the vehicles or create any third party interest pending completion of the enquiry or confiscation proceedings as the case may be. Release of the vehicles shall be subject to any order, which may be passed by the competent authority under the Act, or the competent court, as the case may be. It is made clear that this order will not preclude the respondents from taking action in accordance with law, if need be, for confiscation of the subject vehicles.

5. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE A.V.SESHA SAI

15/09/2015
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NB: Issue CC in one week.

HONOURABLE SRI JUSTICE A.V. SESA SAI

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Date:15/09/2015
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Court Master: I s L