

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.36835 of 2013

ORDER :

Heard Sri P. Vinayaka Swamy, counsel for petitioner, the learned Government Pleader for Irrigation for respondent nos.1 to 3 and the learned Government Pleader for Finance for 4th respondent.

2. The petitioner herein was entrusted work of formation of pressure main for Vellaturu sub-lift at K.M.6.600 (Velagaleru Sub Lift + Kothuru Sub Lift) of TRLIS Left main canal under agreement No.24 SE /2008-09 dt.18.07.2008.

3. The petitioner contends that the nature of work requires supply, laying and jointing R.C.C./P.S.C. pipes and for the purpose of this work petitioner had to excavate the trenches, arrange sand cushion for laying the pipes and lastly, refill the pipe line with the excavated earth which is ordinarily known as "Ordinary Earth". He contends that in the estimate made by respondents seigniorage charges were not included, and therefore, the respondent nos.1 to 3 were not entitled to collect seigniorage charges for the materials used by petitioner; and the recovery of Rs.14,36,505/- proposed by 3rd respondent while sending the final bill to 4th respondent is contrary to law. The petitioner further contends that there

is no mining activity done by petitioner attracting levy of seigniorage charges, and only if mining activity is done then only seigniorage charges can be collected by respondents. The petitioner relies upon the decision of this Court in **Larsen & Toubro Limited, rep. by its Manager and others v. Executive Engineer, Public Health Engineering Department, Anantapur and others**^[1] and another judgment of this Court in **M/s. Coramandel Infrastructures (P) Ltd. v. The Andhra Pradesh State Irrigation Development Corporation Ltd. and others**^[2], wherein this Court had taken a view that digging of trenches in the course of civil works cannot be equated to mining activity attracting levy of seigniorage charges.

4. The learned Government Pleader appearing for respondent nos.1 to 3 however seeks to place reliance on agreement condition No.26.17 justifying recovery of seigniorage charges. The said clause, no doubt, enables respondent nos.1 to 3 to recover seigniorage charges from the contractor's bills as per rates prescribed in the contract documents for the materials used on the work, but the said clause cannot be invoked in the present case, since admittedly, the petitioner has not carried out any mining activity.

5. The learned Government Pleader appearing for

respondent nos.1 to 3 does not dispute the legal position laid down in **Larsen & Toubro Limited** (1 supra) or in **M/s.Coramandel Infrastructures (P) Ltd.** (2 supra).

6. The counsel for petitioner has also placed before me G.O.Ms.No.139 Industries and Commerce (Mines-I) Department dt.12.11.2013 wherein the State Government itself has clarified that seigniorage fee is exempted for leveling of land for civil purpose which is other than mining purpose.

7. In this view of the matter, the Writ Petition is allowed and the action of 3rd respondent in proposing to recover Rs.14,36,505/- from the final bill submitted by petitioner, and instructing the 4th respondent to make such recovery is declared as illegal, arbitrary and contrary to law; and the respondents are directed to make payment as per the final bill submitted by petitioner without deducting the said sum towards seigniorage fee within a period of eight (08) weeks from the date of receipt of a copy of this order. No order as to costs.

8. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 09-12-2015

Ndr/*

[\[1\]](#) 2013 (3) ALT 602

[\[2\]](#) dt.20.09.2013 in WP.Nos.18125 and batch