

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
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For the State of Telangana and the State of Andhra Pradesh

MAIN CASE W.P.NO:22509 of 2015

Between:
P. Somireddy

.. Petitioner(s)

And

The State of A.P. and others

.. Respondent(s)

DATE OF JUDGMENT PRONOUNCED: 21.7.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE A.V. SESA SAI

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|---|--------|
| 1. Whether Reporters of Local news papers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE A.V.SESA SAI
W.P.No.22509 of 2015

O R D E R:

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

“ The Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in nature of Writ of Mandamus declaring the impugned notice dated 18.10.2014 issued by the 2nd respondent in No.366/O/Railways/2009 alleging that the petitioner has indulged in illegal quarrying of Napa Slabs even though the petitioner is not the owner of the entire extent of Ac.4.67 cents in S.No.257 of Nidizuvvi village, Yerraguntla Mandal, YSR Kadapa District as being illegal, arbitrary and is in violation of principles of natural justice and fair play and consequently set aside the same, and pass such other order or orders as may deem fit and proper in the circumstances of the case.”

Heard Sri K. Rathangapani Reddy, learned counsel for the petitioner and the learned Government Pleader for Mines and Geology (A.P.)

According to the petitioner, he is the absolute owner and possessor of the land to an extent of Ac.1.58 cents in Sy.No.257 of Nidizuvvi village, Yerraguntla Mandal, YSR Kadapa District and except the said land he does not have any other property. It is further stated in the writ affidavit filed in support of the petition that the said land is a fallow land and that the petitioner has no nexus with regard to the remaining extent of land in the said survey number.

While so, the 2nd respondent-Assistant Director of Mines & Geology, Yerraguntla, YSR Kadapa District issued a show cause notice dated 31.1.2014 asking the petitioner as to why action should not be initiated for collection of normal seigniorage fee along with five times penalty as per Andhra Pradesh Minor Mineral Concession Rules, 1966. In the said show cause notice, the 2nd respondent-Assistant Director of Mines and Geology stated that technical staff accompanied with technical staff office of the Deputy Director of Mines and Geology, Kadapa Region, and Revenue officials of Yerraguntla Mandal and concerned Railway Department officials have jointly inspected the un-authorized quarrying area of Napa Slabs within 50 meters safety zone of Yerraguntla Kalamalla Railway track located in Survey No.257 of Nidizuvvi village, Yerraguntla Mandal, YSR Kadapa District. By virtue of the said show cause notice, the 2nd respondent-Assistant Director of Mines and Geology, Yerraguntla requested the petitioner to produce the documentary evidence in token of having paid the seigniorage fee charges within 7 days of that notice. According to the petitioner, the respondent-authorities, without verifying the records, have issued the show cause notice dated 31.1.2014. It is pleaded in the writ affidavit by the petitioner that he is pattedar and possessor of the land to an extent of Ac.1.58 cents in Sy.No.257 of Nidizuvvi village and even if the entire property is disposed of he would not get 1/10 of the amount as demanded in the show cause notice and he is not concerned with other extents of the land. The 2nd respondent Assistant Director of Mines and Geology, Yerraguntla, YSR Kadapa District subsequently issued demand notice dated 18.10.2014 asking the petitioner to pay ten times penalty as indicated therein.

Today, during the course of hearing, it is submitted by the learned counsel for the petitioner that the petitioner herein is an illiterate person and not aware of the consequences of the show cause notice. Learned counsel for the petitioner has eventually requested this Court to give an opportunity to the petitioner to submit his explanation to the show cause notice dated 31.1.2014.

Having regard to the facts and circumstances of the case, and taking into consideration the quantum of amount involved, this Court is of the considered view that ends of justice would met if permission is granted to the petitioner to submit his explanation to the show cause notice dated 31.1.2014.

For the aforesaid reason, the writ petition is disposed of ,permitting the petitioner to submit explanation to the show cause notice dated 31.1.2014 within a period of one week from the date of receipt of copy of this order and if such an explanation is filed the same be considered and appropriate orders be passed by the 2nd respondent herein in accordance

with law within a period of one month thereafter. Till such exercise attains finality and appropriate orders are passed on the explanation of the petitioner, no coercive action shall be taken against the petitioner herein. It is also made clear that in the event of failure of the petitioner to submit the explanation within the time stipulated by this Court, this order would not enure to benefit of the petitioner.

Accordingly, the writ petition is disposed of. As a sequel thereto, miscellaneous applications, if any pending in the writ petition, shall stand closed. There shall be no order as to cost.

A.V.SESHA SAI, J

Date:21.7.2015
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THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

W.P.No.22509 of 2015

21.7.2015