

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.6055 of 2012

ORDER:

By this writ petition, the demand notice dated 15.02.2012 issued by the Deputy Director of Mines and Geology, Kakinada, East Godavari District, the 3rd respondent herein, to the petitioner was subjected to challenge. The said demand notice was issued on the ground that the petitioner, being a quarry leaseholder, had carried on quarrying operations beyond the leased area and was therefore liable to pay the demanded amount of Rs.32,31,910/- towards normal seigniorage fee along with ten times penalty.

By order dated 06.03.2012, this Court took note of the fact that prior to the issuance of the impugned demand notice the Deputy Director of Mines and Geology, Kakinada, had himself directed resurvey to be carried out under his memo dated 14.12.2011, in relation to the surrender application of the petitioner, and directed the authorities not to take any further action pursuant to the impugned demand notice dated 15.02.2012 until the resurvey was conducted and the results thereof were taken into consideration.

It is now stated that a resurvey was conducted and the report thereof was furnished to the Deputy Director of Mines and Geology, Kakinada, by the Assistant Director of Mines and Geology, Vijayawada, under letter dated 19.04.2012.

Perusal of the aforesaid letter and the accompanying survey report reflect that the old worked pits, which were the basis for the finding that the petitioner had conducted quarrying operations beyond the leased area, fell within the leased area of Sri N.Arjunudu, which was adjacent to the leased area of the petitioner. The Assistant Director of Mines and Geology therefore opined that the team of Surveyors had not considered this aspect and had concluded that illegal operations were done by the petitioner. He therefore requested

the Deputy Director of Mines and Geology, Kakinada, to take necessary action basing on the survey report.

In the light of the aforestated findings which emerged upon the resurvey taken up pursuant to the direction of the Deputy Director of Mines and Geology, Kakinada, under his memo dated 14.12.2011, it is clear that the impugned demand notice dated 15.02.2012 cannot be sustained.

The writ petition is therefore allowed setting aside the impugned demand notice dated 15.02.2012 issued by the Deputy Director of Mines and Geology, Kakinada, to the petitioner. This order shall however not preclude the Deputy Director of Mines and Geology, Kakinada, from taking into consideration the results of the resurvey and the opinion expressed thereon by the Assistant Director of Mines and Geology, Vijayawada, and initiating appropriate action in the matter in accordance with law, if warranted.

Pending Miscellaneous Petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Date:15.07.2015

GJ