

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.9065 of 2012

ORDER:

This writ petition was filed assailing the proceedings dated 13.01.2012 of the Vice-Chairman, Vijayawada, Guntur, Tenali, Mangalagiri Urban Development Authority, Guntur (VGTMUDA), and the consequential show cause notice dated 05.02.2012 issued by the Deputy Director of Mines and Geology, Guntur.

By the proceedings dated 13.01.2012, the Vice-Chairman of VGTMUDA informed the mining authorities that a judgment had been rendered by the learned Principal District Munsif, Sattenapalli, in O.S.No.104 of 1988 on 23.02.1994 permitting grant of quarry leases only at a distance of 300 metres from the existing Sri Gurukula Vidyalayam Residential High School, Perecherla, and that the petitioner's quarry lease in Survey No.379/1 of Perecherla Village, Medikondur Mandal, Guntur District, fell within the said distance and requested them to take necessary further action in the matter. Consequent thereto, the Deputy Director of Mines and Geology, Guntur, issued the show cause notice dated 05.02.2012 to the petitioner calling upon it to show cause as to why its quarry lease should not be determined as per the judgment and decree dated 23.02.1994 passed by the learned Principal District Munsif, Sattenapalli, in O.S.No.104 of 1988.

By the judgment and decree dated 23.02.1994 rendered in O.S.No.104 of 1988, the learned Principal District Munsif, Sattenapalli, opined that no lease should be granted for conducting quarry works within a distance of 300 metres from the edge of the plaintiff school's premises and accordingly granted a permanent injunction holding that the authorities were permitted to lease out the hill area which was at a distance of 300 metres away from the school premises.

By order dated 30.03.2012, this Court took note of the fact that the petitioner had already submitted an explanation to the impugned show cause notice and directed that no further orders should be passed by the Deputy Director of Mines and Geology, Guntur, on the impugned show cause notice.

Smt.N.Shoba, learned counsel for the petitioner, asserted that the petitioner's quarry lease site fell beyond the stipulated distance of 300 metres from the school. She pointed out that this issue had been specifically adverted to in para 9 of the explanation dated 25.02.2012 submitted by the petitioner in response to the impugned show cause notice dated 05.02.2012.

As the petitioner has already submitted an explanation to the impugned show cause notice, this Court finds no purpose served in keeping the writ petition pending. It is for the authorities concerned to apply their mind to the explanation submitted by the petitioner and take a decision thereon.

The writ petition is accordingly disposed of directing the Deputy Director of Mines and Geology, Guntur, to consider the petitioner's explanation dated 25.02.2012 and undertake a physical joint inspection, after due notice to the petitioner, to ascertain the exact distance between the school and the petitioner's quarry lease site and thereafter pass appropriate reasoned orders in accordance with law. It shall be open to the petitioner to take recourse to such remedies as are available to it, in the event it is aggrieved with the final decision. It shall also be open to the petitioner to take recourse to suitable legal remedies if it is aggrieved by the judgment and decree dated 23.02.1994 passed by the learned Principal District Munsif, Sattenapalli, in O.S.No.104 of 1988.

Interim order dated 30.03.2012 shall stand vacated.

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

SANJAY KUMAR, J

Date:01.10.2015

GJ