

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF FEBRUARY
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.2189 of 2015

BETWEEN

M/s.Imperial Granites Private Limited,
Rep. by its Regional Manager, Sri Shailendra Saklani

... PETITIONER

AND

The State of Andhra Pradesh, Rep. by its Principal Secretary, Secretariat
Building, Hyderabad and others.

...RESPONDENTS

The Court made the following:

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ORDER:

Heard learned senior counsel for the petitioner and learned
Government Pleader for Mines and Geology.

2. Though the affidavit in support of the writ petition, in particular
paragraph 10, shows that petitioner intends to question the show cause
notice dated 31.12.2014, in the prayer portion the date of show cause notice
is described as 15.11.2014. Learned senior counsel, therefore, requests that
the said mistake be permitted to be corrected. Accordingly, petitioner's
counsel is permitted to correct the aforesaid mistake.

3. The grievance of the petitioner is against the said show cause notice dated 31.12.2014 whereunder it was provisionally determined that petitioner is holding the leased area of Ac.21-42 cents as against the leased area of Ac.20-00 and, as such, the said excess area is proposed to be granted on lease to respondent No.6. While we are, at the moment, not concerned with the lease to respondent No.6, inasmuch as no such lease is granted, and if and when such a lease is granted, that question can always be considered. Hence, so far as the provisional conclusion of the respondents that petitioner is holding excess area of Ac.1-42 cents is concerned, as per the show cause notice, a joint survey sketch is also appended to the show cause notice inviting the petitioner to file his objections.

4. Learned senior counsel for the petitioner, however, submits that the entire issue regarding the excess area is pre-determined and further submits that to the extent of the joint survey conducted by the respondents, W.P.No.30728 of 2014 is already pending before this court. It is also stated that even assuming that petitioner is holding any excess land the right to surrender such excess land is with the petitioner and the respondents cannot determine for themselves, the area to be taken out of the leased area of the petitioner.

5. In my view, petitioner having been granted the lease, the said lease is accompanied by a lease deed plan and hence, the petitioner has to confine his operations to the leased area as per the plan. The joint survey sketch appended to the show cause notice demarcates in colour the leased area of Ac.20-00 held by the petitioner as per the lease deed plan and based on the scientific survey. It is further shown in the plan that petitioner is physically found to be holding Ac.21-42 cents. Hence, the excess area of Ac.1-42 cents is sought to be deleted. Petitioner, therefore, is entitled to confine his mining activity to the extent of Ac.20-00, in accordance with the leased area granted, and if there is any conclusion reached by the joint survey or otherwise that the petitioner is holding any excess land, he is entitled to file his objections.

6. Hence, at this stage I am not inclined to entertain the writ petition as no

lease deed is granted to respondent No.6 nor the petitioner's leased area is diminished as on today. Since, petitioner has already filed an interim objection to the show cause notice requesting two weeks time to file the objections, in my view, it would be just and appropriate to permit the petitioner to file his detailed objections with a liberty to raise all his legal and factual pleas, which he proposes to raise, and thereafter the Director shall take a decision in the matter in accordance with law. The petitioner is, therefore, granted time to file the objections on or before 21.02.2015 and after the said objections are received, respondent No.2 shall consider the entire matter keeping in view the facts and circumstances of the case and take a reasoned decision in the matter. It is needless to point out that the petitioner's leased area of Ac.20-00 shall not be diminished and the petitioner shall not be obstructed or disturbed pending consideration of the show cause notice and objections as directed above.

With the above directions, the writ petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

February 5, 2015
LMV