

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

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WRIT PETITION NO.28403 OF 2015

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ORDER:

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

“... to declare the in action of the 4th and 5th respondents to depute the Surveyor of mining department to demark the boundaries of buffer area comprising 8.92 acres and mining land belongs to the petitioner/grantee over an extent of 22.096 hectares (i.e.,60 acres) in Survey No.571/F2-1 Kocheruvu village, Dhone Mandal, Kurnool District as illegal and violative of article 14, 19 (g) and 21 of the Constitution of India and consequently direct the respondents 4 and 5 to depute the department surveyor of mining to demark the boundaries of buffer area comprising 8.92 acres and mining land belongs to the petitioner/grantee over an extent of 22.096 hectares (i.e.,60 acres) in Survey No.571/F2-1 Kocheruvu village, Dhone Mandal, Kurnool District...”

2. Heard Mr.Nageswara Rao Turaga, learned counsel appearing for the petitioner and the learned Government Pleader for Mines and Geology.

3. When the matter is called today, written instructions furnished by the Assistant Director of Mines and Geology, Kurnool have been placed on record by the learned Government Pleader. The said instructions read thus:

“The petitioner has been granted a mining lease for Lime Stone and Dolomite over an extent of 22.096 Hectares in Sy.No.571/F2-1 of Kocheruvu village, Dhone Mandal, Kurnool District for a period of 20 years through G.O.Ms.No.335, Industries and Commerce (M.I) Department, dated 19-12-2006. The area has been demarcated and fixed the boundaries of the leased area duly conducting a survey by this office Surveyor and a sketch was prepared accordingly. The lessee has accepted the survey and executed the Mining Lease deed on 31-05-2007. According to the Mineral Concession Rules, 1960, the lessee has to protect the leased areas under his control and operate the lease according to the covenants of the lease deed. The lessee has never complained and encroachment by the neighbouring land owners.

Further the petitioner did not request for resurvey of the leased area duly

paying the survey charges and submit the challan requesting for resurvey. Therefore, the petitioner approached the Hon'ble High Court without exhausting the remedial measures provided under M.C. Rules, 1960. Moreover he is not permitted to carry on mining operations distructing the lands of the neighbours. The petitioner can not operate the Mining lease by throwing the flying stone generated during mining operations into the other lands existing adjacent to the leased area.

The petitioner filed the writ petition without following the provisions of M.C. Rules, 1960 and did not produce any permission granted by the explosive department for conducting mining operations.

Therefore, the petition deserves no consideration and may be dismissed.

This is submitted for favour of information.”

4. On noticing the said instructions, it is requested by the learned counsel for the petitioner that the petitioner herein will make a fresh application to the respondents' authorities for survey of the subject area and necessary directions may be issued to the respondents' authorities to take appropriate action on the said application.

5. In view of the above, the writ petition is disposed of keeping it open to the petitioner herein to submit an application to the respondent authorities within a period of one week from the date of receipt of this order for survey of the subject area and if any such application is made within the stipulated time, the same may be considered and appropriate action be taken by the respondent authorities in accordance with law after giving notice and opportunity to all the stake holders and this exercise shall be completed within a period of two months from the date of such application. No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

A.V.SESHA SAI, J

DATED: 09-10-2015

Hsd