

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

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WRIT PETITION No. 28972 OF 2015
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ORDER:

This writ petition is filed under Article 226 of the Constitution of India challenges the letter bearing No.2739/VG/2007, dated 26.05.2015 issued by the Assistant Director of Mines and Geology, Vigilance Squad, Hyderabad – 2nd respondent herein.

2. Heard Sri B.Chandrasen Reddy, learned counsel for the petitioner and learned Government Pleader for Mines and Geology for the respondents.

3. According to the petitioner, it is a company incorporated under the provisions of the Companies Act, 1956 and is engaged in the business of Real Estate Since 1966. The Assistant Director of Mines and Geology, issued a demand notice bearing No.2739/VG/2007, dated 09.01.2013, asking the petitioner to pay a sum of Rs.62,03,050/- . As against the said notice issued by the Assistant Director of Mines and Geology, the petitioner herein filed an Appeal under Rule 35 of Andhra Pradesh Minor Mineral Concession Rules, 1966 (herein after, called 'the Rules'). The Assistant Director of Mines and Geology, Vigilance Squad, Hyderabad – 2nd respondent, issued by way of letter bearing No.2739/VG/2007, dated 26.05.2015, requested the petitioner herein to pay Rs.20,74,100/- towards normal seigniorage fee and one time penalty, while stating that in the event of failure to do so, action will be initiated for recovery of Revenue dues of Rs.62,03,050/- under the provisions of Revenue Recovery Act.

4. Calling in question the validity and legal sustainability of the said letter of the Assistant Director of Mines and Geology – 2nd respondent herein, the present writ petition has been filed.

5. It is contended by the learned counsel for the petitioner that the impugned action on the part of the 2nd respondent is highly illegal,

arbitrary, violative of Articles 14, 19(1)(g) of the Constitution of India and opposed to the very spirit and object of the provisions of Rule 35 of the Rules. It is also submitted by the learned counsel that there is absolutely no justification on the part of the 2nd respondent in resorting to the impugned action, when the statutory appeal filed by the petitioner is pending consideration before the Director of Mines and Geology – 1st respondent herein.

6. Per contra, it is contended by the learned Government Pleader, appearing for the respondents, that there is no illegality nor there is any procedural infirmity in the impugned action, as such, the present writ petition is not maintainable and the petitioner herein is not entitled for any relief under Article 226 of the Constitution of India.

7. The information available before this court manifestly discloses that as against the demand notice dated 09.01.2013, the petitioner herein preferred a statutory appeal under the provisions of Rule 35 of the Rules before the Director of Mines and Geology. According to the petitioner, the said Appeal is still pending consideration before the 1st respondent – Director of Mines and Geology. The Statutory remedy of Appeal is provided under the provisions of the Rule 35 of the Rules and the petitioner herein has availed the said remedy by filing appeal before the 1st respondent and the said appeal is pending consideration before the 1st respondent as of now. A perusal of the Memo grounds of appeal placed before this court clearly discloses that the petitioner herein urged number of contentions in the Appeal and the same is pending consideration before the 1st respondent – Director.

8. In the facts and circumstances of the case and having regard the nature of the controversy, this court is of the considered opinion that the interest of justice would be met, if a direction is issued to the 1st respondent to pass appropriate orders on the appeal dated 18.02.2013 filed by the petitioner herein against the demand notice dated

09.01.2013 by fixing some time frame.

9. For the aforesaid reasons, writ petition is disposed of, directing the Director of Mines and Geology – 1st respondent herein to pass appropriate orders on the appeal dated 18.02.2013 filed by the petitioner herein against the demand notice dated 09.01.2013 issued by the Assistant Director of Mines and Geology, within a period of two weeks from the date of receipt of this order. Till the said exercise attains finality, no coercive action shall be taken against the petitioner herein.

10. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

08th September, 2015

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