

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.40482 of 2012

ORDER:

The petitioner is an oil palms grower. It is raising oil palms seedlings in poly bags, for which purpose it needed red soil. The red soil was purchased from private parties. On 03.11.2012 the Assistant Director of Mines and Geology (Vigilance), Eluru, West Godavari District, inspected the premises of the firm and noticed that the Company utilized 2619 Cums. of red soil for its nursery purpose. For utilization of that red soil, the 1st respondent demanded seigniorage fee along with penalty of Rs.3,45,708/- as per Rule 26 (3) (ii) of the Andhra Pradesh Minor Mineral Concession Rules, 1966. The petitioner submitted an explanation on 24.11.2012. In spite of the same, when the respondents are insisting for payment of the amount, the present Writ Petition was filed.

2. This Court by an order, dated 02.01.2013, suspended the demand notice, dated 03.11.2012.

3. As per the decision of this Court in **L.Venkateshwar Rao V. M/s. Singareni Collieries Company Ltd.**^[1], if the consumer shows the source of purchase and its proof of purchase, the authorities are at liberty to proceed against the supplier of minor mineral. In view of the same, it is open to the petitioner to indicate the source of purchase for the said quantity of 2619 Cums. of Red Soil. The authorities also should see that in each case of utilization of minor mineral they need not impose five times penalty as five times penalty is an upper limit that was indicated in the Rules.

4. In the circumstances, the Writ Petition is disposed of giving liberty to the petitioner to submit an additional explanation to the

demand notice, dated 03.11.2012, issued by the 1st respondent and the 1st respondent shall consider the same in accordance with law and pass appropriate orders within a period of three (3) months from the date of receipt of a copy of this order. Till such time, interim orders granted by this Court on 02.01.2013 shall continue. No costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A. RAMALINGESWARA RAO, J

FEBRUARY 23, 2016
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WRIT PETITION No.40482 of 2012

Date: 23.02.2016

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