

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.4699 of 2011

ORDER:

Petitioner is the successful lessee in respect of leasehold rights to quarry ordinary sand from Reach No.2, Godavarru i.e., the area falling in between 10.10 km., to 17.800 km., on the right flood bank of Krishna River, Guntur District. The lease was for a period of two years i.e., from 06.04.2010 to 31.03.2012. The amount of lease was Rs.6,33,00,000/- for the first year i.e., from 06.04.2010 to 31.03.2011 with 20% enhancement for the second year i.e., from 01.04.2011 to 31.03.2012. The petitioner accepted the said lease and furnished a bank guarantee for an amount of Rs.63,30,000/-. He submitted a representation to the Mining Officials stating that lessee of Madduru sand reach is encroaching into his sand reach and sought for taking steps against him. When no action was taken, the petitioner filed W.P.No.12443 of 2010 and the same was disposed of on 25.08.2010 directing respondents 2 and 3 therein to ensure that a joint survey is held as envisaged in the letter dated 01.07.2010 of the Assistant Director of Mines & Geology, Vijayawada and fix boundaries in order to settle the boundary disputes between the petitioner and the third party.

2. It is the case of the petitioner that in spite of the said order, no boundary was fixed, and on the other hand, a demand notice was issued on 01.02.2011 demanding him to pay the second year lease amount of Rs.7,59,60,000/- on or before 15.02.2011. In response to the same, he submitted a representation on 10.02.2011 expressing his inability to pay the second year lease amount and sought for refund of the security deposit. When the respondents were proposing to forfeit the security deposit, the petitioner filed the present writ petition.

3. A counter-affidavit was filed by the fourth respondent stating that the demand notice was issued on 01.02.2011 as per Rule 9-P

(a) of the Andhra Pradesh Minor Mineral Concession Rules, 1966. The counter further states that the Regional Vigilance & Enforcement Officer had inspected the leased area of Godavarru reach, held by the petitioner, on 13.12.2010 and noticed that the petitioner was working outside the ground water permitted area and excavated a quantity of 75004 cubic meters, and accordingly, he issued a letter dated 14.12.2010 requesting the Assistant Director of Mines & Geology, Guntur to collect penalty amount of Rs.1,80,00,960/- on the illegally excavated 75004 cubic meters of ordinary sand. The Deputy Director of Mines & Geology, Guntur issued a notice to the petitioner on 25.02.2011 raising a demand for Rs.1,80,00,960/-. When the same was pending, the petitioner filed W.P.No.3747 of 2011 seeking issuance of dispatch permits. This Court in WPMP.No.4648 of 2011 in W.P.No.3747 of 2011 passed an order on 17.02.2011 directing the respondents therein to issue dispatch permits in respect of the leased area, however, gave liberty to the respondents to take steps for determination of the lease. Accordingly, dispatch permits were issued to the petitioner upto 31.03.2011 till the expiry of the first year lease period. The counter further states that no EMD amount was available to the credit of the petitioner for forfeiture and only security deposit amount paid as per Rule 9-I(2) of the APMMC Rules, 1966 was available and the same was forfeited to the Government for non-payment of second year lease amount.

4. The learned counsel for the petitioner submits that even though the amount of security deposit was forfeited, no orders have been passed enabling the petitioner to take appropriate legal steps against the orders of forfeiture.

5. As could be seen from the above narration of events, this writ petition was filed when the respondents tried to forfeit the security deposit and after filing of the writ petition, the security deposit amount was forfeited and no order was communicated to the petitioner. In view of the facts stated above, forfeiture of the security deposit cannot be held

to be illegal *prima facie*. But, however, the respondents shall communicate the proceedings of forfeiture to the petitioner in order to enable him to take appropriate legal proceedings.

6. With the above observations, the writ petition is dismissed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 01.03.2016

TJMR