

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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WRIT PETITION No.26402 OF 2012

Between:

Pila Devudu and others.

....Petitioners

and

State of Andhra Pradesh,
Represented by its Principal Secretary to
Revenue (Mines and Mineral) Department,
Secretariat, Saifabad, Hyderabad, and others.

....Respondents

JUDGMENT PRONOUNCED ON : 22.02.2016

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.26402 OF 2012

ORDER:

The petitioners, claiming to be agriculturists in different survey numbers in Thotakurapalem Village of Ravikamatham Mandal in Visakhapatnam District, filed the present Writ Petition challenging the grant of lease in favour of respondent Nos.8 and 9 on the ground that mining activity would affect their crops and the existing water course. Though respondent Nos.4 to 7 are under statutory obligation to see that the mining activity does not affect the neighbouring ryots and the existing water courses, they have not taken steps and precautions, but

recommended for grant of lease, which resulted in granting lease in favour of respondent Nos.8 and 9 by proceedings dated 24.12.2011 issued by the second respondent.

The third respondent filed a counter affidavit stating that respondent Nos.8 and 9 applied for quarry lease for Colour Granite over an extent of 6 hectares and 7 hectares in Survey Nos.305, 306 and 307 of Thotakurapalem Village of Ravikamatham Mandal in Visakhapatnam District. After surveying the land and submitting proposals for grant of quarry lease, the quarry lease was granted in favour of respondent Nos.8 and 9 on 04.06.2012. The quarry lease was executed for a period of 20 years from 27.06.2012 to 26.06.2032 in their favour. The Tahsildar, Ravikamatham Mandal, issued No Objection Certificate on 27.09.2004 duly enclosing the Gram Panchayat resolution. The extent of land applied for quarry lease was classified as "Konda Poramboke" and it was free for grant. The District Collector opined that the grant of quarry lease would fetch revenue to the Government. In those circumstances, the quarry lease was granted after following due process of law.

The sixth respondent also filed a separate counter affidavit supporting the version of the third respondent.

The eighth respondent filed a counter affidavit admitting that a water course exists in between Survey Nos.306 and 307 and only during rainy season the water flows through this water course. Separate quarry leases were granted in respect of lands in Survey Nos.305 and 307 leaving the said water course. The present Writ Petition was filed when the applications of others were rejected and the same was filed at the instance of the unsuccessful applicants. He further stated that he commenced the mining activity by deploying most sophisticated machinery investing more than one crore rupees and the mining activity is being carried out in a full fledged manner.

A perusal of the affidavit filed by the petitioners shows that it was based on mere apprehension with regard to the damage to their crops and the existing water course. It is also clear from the counter affidavits that no lease was granted in respect of the area covered by the water course and the water course is kept intact. The water would flow only during the rainy season.

In the circumstances, in the absence of any legal right in favour of the petitioners, the relief sought for by the petitioners cannot be granted in the present Writ Petition, and accordingly, the Writ Petition is dismissed. However, it is open to the petitioners to seek appropriate remedies in accordance with law, if their crop is damaged in any manner by the mining activity, and they are at liberty to complain to the authorities if the water course is damaged/interfered in any manner due to the mining activity. It is needless to observe that the authorities would take appropriate action in accordance with law. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

22.02.2016

vs