THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.30237 of 2010

ORDER:

Respondent No.4 seized the quantity of sand of 1776 cubic metres from Gowripatnam Village, Chodavaram Mandal, Visakhapatnam District on 28.10.2010 and handed over the same to the Tahsildar, Chodavaram Mandal for safe custody and wanted to dispose of the sand through public auction, and accordingly, auction notice was issued on 02.11.2010. The petitioner became the successful bidder for an amount of Rs.2,25,500/- and he paid the entire amount including income tax and sales tax. He was permitted to transport the said sand by virtue of the orders dated 09.11.2010 for a period of 20 days with effect from 09.11.2010 to 28.11.2010. The sand was laying at 18 different places of Gowripatnam Village, Chodavaram Mandal, Visakhapatnam District. When the petitioner tried to lift the sand, the villagers through respondent No.9 obstructed the lifting of sand. The matter was compromised by paying an amount of Rs.400/- per each lorry to the villagers. The petitioner was issued 296 way-bills, but he could utilise only 84 bills. The villagers at the instance of respondent No.9 made a fresh demand for payment of Rs.800/- per lorry and were obstructing the lifting of sand. In those circumstances, the petitioner submitted a representation on 22.11.2010 to the District Collector requesting him to extend the time limit for lifting the sand or refund the amount paid by him. The present writ petition was filed alleging that the said representation was not considered and the petitioner could not lift the sand.

A counter was filed on behalf of the respondents stating that the petitioner became a successful tenderer for lifting of 1776 cubic metres of seized ordinary sand laying at 18 different places of

Gowripatnam Village, Chodavaram Mandal, Visakhapatnam District for a period of 20 days with effect from 09.11.2010 to 28.11.2010. A letter was also addressed to the Tahsildar, Chodavaram Mandal on 09.11.2010 to issue necessary instructions to the Village Revenue Officer, Gowripatnam Village and a copy of the same was marked to the Station House Officer, Chodavaram Police Station for providing necessary protection. After completion of the time limit, technical staff of the Assistant Director of Mines and Geology visited the area and noticed that no sand was available. Hence, they came to the conclusion that by using 84 transit forms the petitioner lifted the entire quantity from the area and no sand remained.

This Court by order dated 03.12.2010 directed the respondents not to remove the sand of 1776 cubic metres seized by the Vigilance Department until further orders. In view of the utilization of 84 transit forms by the petitioner and the non-availability of sand after the expiry of prescribed period, it cannot be said that the petitioner did not lift the sand in respect of which he became the successful tenderer.

In view of the facts, nothing remains to be considered by the respondents though the petitioner might have submitted a representation on 22.11.2010. Even otherwise also after expiry of five years no sand will remain in 18 places.

In the circumstances, this Writ Petition is dismissed. No order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

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A.RAMALINGESWARA RAO, J

12.04.2016

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