

**HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE A. SHANKAR
NARAYANA**

WRIT PETITION No.23306 OF 2009

—
ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

This writ petition was filed by way of a Public Interest Litigation seeking the issue of a writ of *mandamus* to declare as illegal, the grant of a quarry lease for gravels in favour of respondent Nos.6 to 10 in the Tank Poramboke.

2. Heard Sri N. Siva Reddy, learned counsel for the petitioners, and the learned Government Pleaders appearing for the respondents.

3. The 3rd respondent herein, who is the Assistant Director of Mines and Geology, Rajahmundry, has filed counter affidavit. In his counter affidavit, he has admitted that as per Rule 9 (ii) of APMMC Rules, 1966, no quarry lease can be granted in respect of areas covering any tank or river bed.

4. However, it appears that respondent Nos.6 to 10 herein made applications on various dates in the years 2008 and 2009 for the grant of lease for a period of five (05) years, over a vast extent of land. Upon receipt of the applications, they were referred to the Tahsildar, Gollaprolu and Executive Engineer, Y.I. Division,

Peddapuram. The Tahsildar seems to have informed the 3rd respondent by a letter, dated 04-03-2009, that the land was classified as Kodanda Rama Tank Poramboke in village accounts. But, surprisingly the Water Users Association, Tatiparthi appears to have given no-objection, as a consequence of which, the Tahsildar recommended for the grant of lease.

5. The Executive Engineer in turn, seems to have sent a letter, dated 12-05-2009, indicating that Kodanda Rama Tank of Tatiparthi village was having an Ayacut of about 3.50 acres and that in the tank bed area, about 110 acres is completely silted up and Ayacutdars are suffering from shortage of water. On the said basis, the Executive Engineer also gave no-objection for removal of silt in the tank bed area to the extent of about 34.05 acres.

6. On the basis of recommendations made by the Tahsildar and the Executive Engineer and the no-objections given by them, the Deputy Director of Mines and Geology seems to have granted quarry leases in May, July and August, 2009, to respondent Nos.6 to 10 herein. The leases were for a period of five (05) years.

7. However, it appears that the lease-holders started deviating from the conditions stipulated by the Department, forcing the Executive Engineer to send a communication, dated 20-10-2009. On the basis of the

said letter, the Assistant Director of Mines and Geology requested the lease-holders to stop quarrying operations until further orders. It is further stated in the counter that after orders were passed by this Court on 30-10-2009, respondent Nos.6 to 10 are not granted any transport permits.

8. In the light of the stand taken by the Assistant Director of Mines and Geology, we deem it fit to close the writ petition without further orders. But, we make it clear that in so far as water bodies are concerned, no one will have a right even to grant no objection, when Rule 9 (ii) of APMMC Rules, 1966 is so clear. It shall be the responsibility of respondent No.3 to ensure that no such lease is granted. The disposal of the writ petition will not enable the

3rd respondent to issue fresh transport permits as the lease periods have also expired in 2014. Therefore, the writ petition is disposed of, according to the statement made in the counter affidavit, and directing the respondents not to process any further applications for the grant of mining license in the water bodies. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

V.

RAMASUBRAMANIAN, J

A. SHANKAR NARAYANA, J

June 07, 2016.

Mgr