THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Writ Petition No.18030 of 2016

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

The action of the respondents in detaining the vehicle and the goods is questioned in this writ petition as being illegal and arbitrary. The petitioner seeks a direction to respondents 2 to 4 to release the vehicle after unloading the goods.

The petitioner is the owner of a lorry bearing Registration No.AP 27 W 5797. It is her case that the vehicle was hired by M/s. Leela Granites, Martur, Prakasam District to transport polished granite pieces to M/s. Venkateswara Marbles, Pune, Maharashtra and, while the goods were under transportation, the vehicle was stopped by the 3rd respondent on 03.06.2016 at Yeddanapudi Village, Prakasam District and the consignment was checked. The 3rd respondent is said to have detained the vehicle along with the goods for want of production of royalty payment on the consignment of polished granites which was under transportation, and the driver of the vehicle was directed to keep the lorry under the safe custody of the Yeddanapudi Police Station. On the ground that the 3rd respondent was demanding payment of royalty, the petitioner has invoked the jurisdiction of this Court.

Sri P. Girish Kumar, learned counsel for the petitioner, would rely on the judgment of this Court in W.P.No.2682 of 2016 dated 24.02.2016 to contend that, while a person who has purchased the finished goods/processed mineral and is transporting the same for his/her use can possibly be asked to disclose the source from which he/she had purchased the finished product/processed mineral, such a person cannot be called upon to produce proof of payment of mineral revenue as what was being transported was not minor mineral but finished goods, and as the petitioner is merely a transporter and had given the vehicle on hire to the owner of the finished goods, they cannot be called upon to pay seignorage fee as a condition for release of the vehicle; and it would suffice if the petitioner were to furnish information regarding the person who transported the goods in the vehicle/hired the vehicle as the respondent-officials can, in turn, ascertain from such person whether mineral revenue was paid on the mineral used in the manufacture of finished goods.

Learned Government Pleader for Mines and Geology would submit that, after the judgment of this Court in W.P.No.2682 of 2016 dated 24.02.2016, G.O.Ms.No.37 dated 14.03.2016 was issued amending, among others, Rule 26 and Rule 34 of the A.P.Minor Mineral Concession Rules, 1966 (for short "the Rules") and, consequently, the authorities can direct the person transporting the goods to furnish documentary proof of having paid mineral revenue due to the Government. She would rely on the amended Rule 26(3)(ii) and Rule 26(3)(iii) of the Rules in this regard.

The amended Rule 26(3)(ii) is identical to the pre-amended Rule 26(3)(ii) of the Rules except that, while the pre-amended Rule prescribed a penalty of five times the normal seignorage fee leviable under the Rules, the amended provision prescribes a punishment of imprisonment for a term which may extend to two years or with fine which may extend to Rs.5,00,000/- along with the market value of the mineral and seignorage fee prevalent at that time or both. The judgment of this Court in W.P.No.2682 of 2016 dated 24.02.2016, interpreting the pre-amended Rule 26(3)(ii), would apply to the amended Rule 26(3)(ii) of the Rules also.

Sub-Rule 3(iii) was inserted to Rule 26 for the first time by G.O.Ms.No.37 dated 14.03.2016 which provides that, if the driver or person in charge of the vehicle fails to produce a valid permit issued by the concerned Assistant Director of Mines and Geology or an officer authorised by the Director of Mines and Geology, the officer-in-charge of the check post or barrier, or on the interception of the vehicle during its movement, can call upon the driver to show him a copy of the valid permit issued by the officials of the Department of Mines and Geology and, on failure of the driver to produce such a valid permit, to impose a penalty equal to the market value of the mineral along with the prevalent seignorage fee.

As Rule 26(3)(iii) of the Rules is attracted only where the driver of the vehicle fails to produce a valid permit, the question which necessitates examination is whether the driver of the vehicle, transporting finished goods/processed mineral and not a minor mineral, is required to obtain a valid permit from the Department of Mines and Geology. The amended Rule 34(1) of the Rules stipulates that no minor mineral shall be dispatched from any of the leased areas without a valid permit issued by the Assistant Director of Mines and Geology concerned or any officer authorised in this behalf by the Director of Mines and Geology. A valid permit, issued by the Officer in the Directorate of Mines and Geology, is essential only for dispatch of a minor mineral and not for transportation of finished goods/processed mineral and, as the subject vehicle was, admittedly, transporting finished color granite slabs (processed mineral), the driver of the vehicle was neither required to obtain a valid permit from the Department of Mines and Geology nor carry the same along with the vehicle. Rule 26(3)(iii) of the Rules does not, therefore, apply to the facts of the present case.

As the judgment of this Court, in W.P.No.2682 of 2016 dated 24.02.2016, would apply even in relation to the amended Rule 26(3)(ii) of the Rules, it is useful to take note of the observations made in the aforesaid judgment. This Court, after referring to **Novel Granites v. State of A.P**[1], and **Siva Sai Granites, Guntur v. Government of A.P**[2] observed:

> ***"............While a person who has purchased finished goods/processed mineral, and is transporting it for his/her own consumption, could possibly be asked to disclose the source from which he had***

purchased the finished product/processed mineral, he cannot be called upon to produce proof of payment of mineral revenue as what he is transporting is not the minor mineral on which royalty is required to be paid. Such disclosure of the source from which he had purchased the finished products would enable the authorities concerned, in turn, to ascertain from the person who sold the finished products to the petitioner, whether he had used minor minerals in production/manufacture of the finished product, and if so, to ascertain whether mineral revenue had been paid thereupon. The contention of the learned Government Pleader that the respondents are entitled to insist on documentary proof being furnished, of mineral revenue having been paid, by such a person, therefore necessitates rejection………" (emphasis supplied)

While a person, who has purchased finished goods/processed mineral and is transporting such goods, can be asked to disclose the source from which he has purchased the finished product/processed mineral to enable the authorities concerned to ascertain whether the person, who sold him the finished products, had used minor mineral in the production/manufacture of the finished product and, if so, whether mineral revenue had been paid thereupon, in the present case it is not the owner of the finished goods, but the transporter who has been called upon to disclose the source from which the finished goods were procured. The transporter would only be able to disclose details of the party which either took the vehicle on hire or had transported the goods in their vehicle, and would be in no position to inform the respondents of the source from which the owner of the finished goods had procured them.

Sri P. Girish Kumar, learned counsel for the petitioner, would contend that the petitioner had furnished details of the person, who had taken their vehicle on hire, as M/s. Leela Granites, Martur, Prakasam District and it was always open to the officials of the Department of Mines and Geology to enquire from M/s. Leela Granites the source from which they had either procured the finished products or, if they are the manufacturers of the finished products, the source from which they had procured the mineral, and whether mineral revenue had been paid thereupon.

On the other hand Learned Government Pleader for Mines and Geology would submit, not without justification, that the address furnished in the affidavit is vague, and is bereft of relevant particulars such as the place of business of M/s. Leela Granites or their door number or their address; and it is only if such information is furnished would the respondent-officials be in a position to ascertain, from M/s.Leela Granites, the source from which they had procured the finished goods; and whether mineral revenue had been paid on the mineral used in the production/manufacture of these finished goods.

Ends of justice would be met if the respondents are directed to release the vehicle forthwith on the petitioner furnishing details of the person who transported the goods in their vehicle. As the petitioner has only sought for release of the vehicle, it is made clear that this order shall not preclude the respondents from detaining the goods, and thereafter taking action in accordance with law. It is also made clear that this order shall not preclude the respondents, if they so choose, from instituting criminal proceedings against the transporter of the vehicle in accordance with Rule 26(3)(ii) of the Rules.

The writ petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date:15.06.2016

Note: Issue C.C. in two days.

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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[1] 2010 (1) ALD 812

[2] (Judgment in W.P.No.27094 of 2013 dated 19.09.2013)