

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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WRIT PETITION No. 22483 of 2016

ORDER:

Heard learned counsel for the petitioners and learned Government Pleader for Mines and Geology.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the seizure of the petitioners Earth Mover (Hitachi-110), Ashok Leyland Tippers (10 tyres) bearing Nos.AP 31 TT 8352, AP 04 TT 1567 and AP 21 TY 9969, as illegal and arbitrary.

The case of the petitioners is that 1st petitioner is owner of Tipper bearing No.AP 21 TY 9969, 2nd petitioner is owner of Earth Mover (Hitachi-110-2), 3rd petitioner is owner of Tipper bearing No.AP 31 TT 8352 and 4th petitioner is owner of Tipper bearing No.AP 04 TT 1567. He further submits that upon a request made by one Somanna and his sons, the petitioners gave their vehicles on rent for removal of the gravel from the land of Somanna and refill the same with black soil by getting it from a nearby tank. The third respondent is said to have seized the said vehicles alleging that it was involved in illegal excavation and transportation of earth/gravel in Survey No.402 of Dinnadevarapadu Village, Kurnool Mandal, Kurnool District.

Learned Government Pleader did not dispute the ownership of the vehicles and further submits that illegal excavation and transportation of earth/gravel was done by the pattadar of the land and the petitioners are only the owners of the vehicle. It is no doubt true that Rule 26 of A.P.Minor Mineral Concession Rules

contemplates penalty for unauthorized quarrying and also seizure of the vehicle used for illegal excavation and transportation, but the issue is whether the vehicles require detention at this stage.

A perusal of the material on record would show that allegation of unauthorized quarrying is against the land owners who carried out excavation and transportation of earth/gravel. Insofar as the petitioners are concerned, their vehicle, which is given on lease, was used for quarrying gravel. Further, it is to be noted that if the vehicles are not used for a reasonable time or if it is kept idle, there is every possibility of vehicle getting damaged.

Having regard to the said circumstances, the writ petition is disposed of directing the petitioners to make appropriate application seeking release of his vehicle before respondent No.3. On receipt of such application from the petitioners or if any applications are already made for release of vehicles, respondent No.3 shall release the Earth Mover (Hitachi-110), Ashok Leyland Tippers (10 tyres) bearing Nos.AP 31 TT 8352, AP 04 TT 1567 and AP 21 TY 9969, on such terms and conditions as he deems fit and proper. It is needless to mention that release of the vehicles herein shall be subject to further orders that will be passed by the respondents in the enquiry to be conducted with respective allegations against pattadars and the role if any played by the petitioners in the said alleged offence. It is needless to mention that the said process shall be completed as early as possible preferably within a period of ten (10) days from the date of receipt of the said application.

Miscellaneous petitions, pending if any, shall stand closed in the light of this final order. No order as to costs.

**JUSTICE C.PRAVEEN
KUMAR**

13.07.2016
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