

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 6357 OF 2017

ORDER :

The notice dated 09.02.2017 issued by the 3rd respondent Assistant Director of Mines & Geology demanding the petitioner to pay certain amounts figured therein for the alleged quarrying of mineral outside the leased area, in Survey No.1072, Basinikonda Village, Madanapalle Mandal, Chittoor District, has been challenged in this Writ Petition on the ground that on earlier occasion, as against the demand notice dated 15.06.2015 directing the petitioner to pay Rs.34,65,000/-, he had already preferred an Appeal and the same is coming up for hearing on 23.02.2017. Pending the said Appeal, a fresh show cause notice was issued to the petitioner alleging that he had excavated an increased quantity of 21,704.200 cubic meters. After taking into consideration the explanation submitted by the petitioner, the impugned demand notice dated 09.02.2017 has been issued.

Learned counsel for the petitioner submits that the demand made under the impugned notice has, in fact, been included in the earlier demand notice dated 15.06.2015, against which the Appeal has also been filed.

Learned Government Pleader for Mines & Geology (Andhra Pradesh) disputes the contention of the learned counsel for the petitioner. He further submits that inasmuch as there is a remedy of Appeal available for the petitioner against the demand notice, no writ can be entertained.

Having considered the respective submissions and as can be seen from the material placed on record, it is clear that the earlier

demand notice was dated 15.06.2015, against which, admittedly, the petitioner had preferred the Appeal. The present impugned notice is pursuant to the show cause notice issued to the petitioner on 30.11.2016, to which he had submitted his explanation dated 17.12.2016. *Prima facie*, the impugned notice discloses that it was issued in addition to the notice dated 15.06.2015. In other words, this being an independent demand, which, admittedly, was issued after giving opportunity to the petitioner and after considering his explanation, as rightly contended by the learned Government Pleader, since there is an alternative remedy of Appeal, the Writ Petition is not required to be entertained. Accordingly, it is dismissed, however, leaving liberty to the petitioner to avail the remedy of Appeal under the A.P. Minor Mineral Concession Rules, 1966. No costs.

Consequently, the miscellaneous Applications, if any shall also stand dismissed.

CHALLA KODANDA RAM, J

23rd February 2017

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