

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.1114 of 2017

ORDER:

This writ petition is filed by the petitioner seeking Mandamus declaring inaction of the respondents in initiating steps to prevent illegal mining operations by the 4th respondent in the applied area situated in Sy.No.228 of Govardhanagiri Village, Raghunathapalle Mandal, Jangaon District, as illegal and arbitrary, and consequently sought a direction to the respondents to prevent the said illegal mining operations in the said premises.

2. It is the contention of the learned counsel for petitioner that though the 4th respondent has no authorization or license to conduct mining operations and, in fact, his application for quarrying operations in the aforesaid premises is pending consideration, he is carrying on the quarrying operations in the said premises.

3. The learned Government Pleader for Mines and Geology (Telangana) has placed on record a copy of the counter affidavit signed by the 3rd respondent - Assistant Director of Mines and Geology. Para-6 of the counter affidavit, which is relevant, reads as under:

“6. It is submitted that the technical staff of this office reported that a hillock striking/stretching NW-SE direction, comprised with dissected rock boulders overlain by sheet rock formation of granite and raised about 30 to 60 mts. from the general ground level. Sri Majid Afsar held a quarry

lease for Building Stone and Road Metal over an extent in same survey on and at the flank of hillock. During the course of inspection and local enquiry, it is revealed that the quarrying and crushing activity are not working since last six months. In this connection, it is humbly submitted that the Deputy Director of Mines and Geology, Warangal, vide proceedings No.2325/Q/2007, dated 24.01.2008 has granted a quarry lease for stone and metal over an extent of 5.00 Hectares in Sy.No.228 of Govardhanagiri (V), Raghunathpalli (M), Warangal District, for a period of (10) years in favour of Sri M.A. Majid Afsar. The ADM&G, Warangal, vide proceedings No.2325/Q/2007, dated 24.01.2008 executed the quarry lease deed and issued work orders for a period of (10) years i.e., from 24.01.2008 to 23.01.2018. The quarry lease holder Sri Majid Afsar was being carried out the quarrying operations within the leased area duly obtaining the permits after payment of the Advance Seigniorage fee to the Government.

Subsequently, the Regional Vigilance and Enforcement Officer, Warangal, along with technical staff of this Office have inspected the area on 04.01.2016 of the quarry lease held by Sri M.A. Majid Afsar over an extent of 5.00 Hectares in Sy.No.228 of Govardhanagiri Village, Raghunathapalli Mandal, Warangal District. During the course of inspection, they have noticed that the lessee excavated excess quantity to a tune of 31,450 M3 of stone and Metal beyond the permitted quantity in his quarry lease area. Hence, the Regional Vigilance and Enforcement Officer, Warangal, requested to the erstwhile and residual Assistant Director of Mines and Geology, Warangal, to take necessary action to realize the normal seigniorage fee together with (5) times penalty u/R 34(1) of TMMCR-1966. In this regard, the erstwhile and residual ADM&G, Warangal, had issued show cause notice No.2365/Q/2007, dated 17.05.2016 with a request to show cause as to why action should not be taken for cancellation of normal seigniorage fee along with (5) times penalty of Rs.1,41,52,500/- u/R 34(1) of TMMCR-1966. But the lessee has failed to submit the explanation in response to show cause notice in stipulated period so that the ADM&G,

Warangal, has issued Demand Notice to the lessee vide No.2325/Q/2007, dated 26.08.2016 for payment of penalty amount as stated above. But so far no payment was made by Sri M.A.Majid Afsar. Hence, the issuance of Dispatch Permits was stopped to the lease holder. Accordingly, Sri M.A.Majid Afsar filed Revision Application filed on 08.11.2016 U/R 35 of TMMCR-1966 before the Principal Secretary, Government of Telangana against the Demand Notice vide No.2325/Q/2007, dated 26.08.2016. The orders are awaited. In this regard, it is humbly submitted that the petitioner, i.e., M/s.Mahalaxmi Robo Sand Ind., neither demarcated nor obtained NOC for the applied areas on the ground till to date. Therefore, the petitioner allegations are false and baseless.”

4. The learned Government Pleader also would submit that as on date, the 4th respondent is not carrying on any quarrying operations in the subject premises.

5. In the light of the stand taken by respondent No.3 in the counter affidavit, as on today, since the petitioner is having no interest in the subject premises and as the respondent authorities have already initiated proceedings against the 4th respondent for the alleged violations, no relief, as prayed for in this writ petition, can be granted to the petitioner.

6. Accordingly, this writ petition is closed. Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed. There shall be no order as to costs.

JUSTICE CHALLA KODANDA RAM

25.01.2017.
Msr

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