

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.17699 OF 2017

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue a writ, direction or order particularly one in the nature of Writ of mandamus by declare the action of the 3rd respondent in seizing on 5-2-2014 the machinery of the petitioner TATA HITACHI HYDRAULIC EXCAVATOR, Model No. Ex200LC BH with HD bucket while in operation in the quarry lease area for gravel in over an extent of 11.00 Acs in Sy.No.897/2p of Peddapuram Village and Mandal, East Godavari District granted in favour of Sri A. Satyanarayana lease will force till on 18-7-2016 and not releasing the seized EXCAVATOR as illegal, arbitrary, unjust and contrary to Section 25 (5) of Mines and Minerals (Development & Regulation) Act, 1957 & A.P. Minor Mineral Concession Rules, 1966, in violation of principles of natural justice against the Article 14, 19 (1) (g) and 21 of the Constitution of India and consequently direct the 3rd respondent to release the machinery seized and kept in custody of 4th respondent and pass such other order or orders as the Hon'ble Court deems fit and proper in the circumstances of the case interest of Justice.”

2. It is stated in the affidavit filed in support of the writ petition that the petitioner herein is the owner of the aforementioned machinery. On 08.04.2013, one A.Satyanarayana was granted lease by respondent No.2 for quarrying gravel in an extent of Ac.11.00 cs in Sy.No.897/2P of Peddapuram Village and Mandal, East Godavari District and the same was valid up to 18.07.2016. The lessee has hired the aforementioned machinery of the

petitioner for excavation and loading of gravel into the vehicle in his quarry lease area *vide* agreement, dated 24.01.2014, and pursuant to the said agreement, the work was in operation. While so, the Regional Vigilance & Enforcement officials inspected the quarry lease area and respondent No.3 seized the aforementioned machinery by treating the operations as illegal. Conducting of quarry operations by the lessee was legal and valid. The petitioner is only the owner of the said machinery and the said machinery is not involved in any transportation. Respondent No.3 seized the machinery during the course of routine Mineral Traffic check and has given the same to the custody of respondent No.4 on 05.02.2014. The excavator is within the granted quarry lease area. Hence, the petitioner filed the present writ petition.

3. Learned Government Pleader for Mines and Geology appearing for respondent Nos.2 and 3 and the learned Government Pleader for Home appearing for respondent No.4 submitted that the petitioner may be directed to file an application before respondent No.3 along with necessary documents to show that he is the owner of the machinery in question and on such application being filed, respondent No.3 will forward the same to respondent No.4 after passing an order to release the machinery and that on receipt of the order from respondent No.3, respondent No.4 will release the said machinery.

4. Recording the submission of the learned Government Pleader, this writ petition is disposed of directing the petitioner to file an application before respondent No.3 along with all necessary documents to prove that he is the owner of the machinery in

question and on such application being filed, respondent No.3 shall forward the same to respondent No.4 after passing an order to release the machinery and on receipt of the order from respondent No.3, respondent No.4 shall release the machinery in question. There shall be no order as to costs.

5. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

Date : 27.06.2017
AMD



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