

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.36429 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioners, who are respective owners of the tractor and trailer bearing Nos.AP 07 BZ 7209 & AP 07 BZ 7210 and JCB bearing No.AP 10 AL 7704, which were seized alleging illegal excavation and transportation of gravel from a land, which is said to be Government land. However, later notice, dated 12.09.2017, was issued directing the petitioners to produce permissions, if any, obtained by them; and, after receiving their explanation, the demand notice, dated 04.10.2017, was issued directing the petitioners to remit double the market value of the mineral along with fine of Rs.5,00,000/- i.e., a total sum of Rs.5,67,500/-. Aggrieved thereof, the present writ petition is filed.

2. Though it is *inter alia* contended that the demand made without a show cause notice is liable to be set aside, it is fairly conceded that an efficacious alternative remedy of appeal is available to the petitioners.

3. Learned Assistant Government Pleader appearing for respondents 2 and 3 while submitting that the writ petition is not maintainable and that the demand notice was issued after following the procedure, brought to the notice of this Court an order dated 09.12.2016 in W.P.M.P.No.52782 of 2016 in W.P.No.42811 of 2016, wherein and whereby this Court directed the third respondent therein to grant permits to the petitioner therein subject to the petitioner paying 50% of the amount

demand in the demand notice and gave an opportunity to the petitioner to prefer an appeal by further observing in the order that the amount deposited by the petitioner therein shall be subject to the result of the appeal. Accordingly, learned Assistant Government Pleader requested for disposing of the writ petition by issuing similar directions.

4. Learned counsel for the petitioners submits that instead of imposing the condition of paying 50% of the amount demanded in the demand notice, some reasonable amount may be directed to be paid by the petitioners.

5. Having regard to the submissions, the writ petition is disposed of reserving liberty to the petitioners to prefer an appeal as envisaged under law and directing them to pay Rs.2,00,000/- (Rupees two lakhs only) out of the amount demanded in the demand notice dated 04.10.2017 within four weeks from the date of receipt of a copy of this order and making it clear that the second respondent shall release and give interim custody of the vehicles to the petitioners on the petitioners making the said deposit, and on undertaking that they will not alienate or transfer the subject vehicles in any manner and will maintain them in the same good and road worthy condition without changing any of their features and major parts and shall produce them along with their relevant documents at a specified place or before a specified authority as and when required. It is needless to observe that the amount deposited by the petitioners shall be subject to the result of the appeal, which they may prefer pursuant to the orders of this Court. It is also made clear that the appeal, if any, preferred by

the petitioners shall be disposed of strictly in accordance with the procedure established by law, however, after giving an opportunity of hearing to the petitioners.

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

M. SEETHARAMA MURTI, J

Date: 06.11.2017
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