

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.38442 of 2017

ORDER:

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

“... to issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in not passing any orders in the suspension petition and appeal filed by the petitioner against the Demand Notice No.3294/Vig/2017, Dated 03.10.2017 and the Revised Demand Notice No.3294/Vig/2017, Dated 04.10.2017, issued by the 3rd respondent and the further action of the 3rd respondent in seeking to initiate proceedings under the Revenue Recovery Act, for recovery of the demanded amount, during pendency of appeal before the 2nd respondent, as arbitrary, unjust, illegal, failure to exercise power, failure to verify the record available with the Department, violative of the procedure contemplated under the A.P. Minor Mineral Concession Rules, 1966 and also violative of the Fundamental Rights guaranteed under Articles 14 and 19 and the Constitutional Right under Article 300-A of the Constitution of India and consequently direct the 3rd respondent not to take any coercive steps pending the appeal filed by the petitioner and pass such other or orders as are deemed fit and proper in the circumstances of the case.’

(Reproduced verbatim)

2. I have heard the submissions of the learned counsel appearing for the petitioner and of the learned Government Pleader representing the respondents 1 to 3. I have perused the material record.

3. Eventually, the grievance of the writ petitioner is that the appellate authority, that is, Assistant Director of Mines and Geology/ 3rd respondent, before whom the petitioner has preferred an appeal is not disposing of the application for stay, which is filed along with the appeal, and that in the meanwhile coercive steps are being initiated for recovery of the demand made in the revised demand notice.

4. Learned Government Pleader would submit that this writ petition may be disposed of granting stay orders subject to condition of deposit of 50% of the amount demanded in the revised demand notice and the appellate authority may be directed to dispose of the appeal in accordance with the procedure established by law. However, learned counsel for the petitioner would submit that if the appellate authority is directed to dispose of the application filed for grant of stay, ends of justice would be met.

5. Recording the submissions, the Writ Petition is disposed of directing the appellate authority, that is, the Assistant Director of Mines and Geology (Vigilance)/ 3rd respondent, to dispose of the application filed for grant of stay in the appeal filed by the petitioner within three (03) weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

16.11.2017
Vjl