

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

Writ Appeal No.1966 of 2017

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the ad-interim order passed by the Learned Single Judge in W.P.M.P.No.52569 of 2017 in W.P.No.42402 of 2017 dated 14.12.2017. The 8th respondent in the writ petition has preferred this appeal against the order of the Learned Single Judge.

The appellant (8th respondent in the writ petition) is said to have submitted an application for grant of quarry lease. He later submitted an application, as the Managing Partner of the respondent-writ petitioner's firm, for grant of quarry lease and withdrew the application submitted by him earlier in his individual capacity. The application filed in the name of the partnership firm was processed, and the committee is said to have recommended grant of a quarry lease in its favour. At that stage, the appellant submitted a letter withdrawing his earlier withdrawal letter, but no orders have, admittedly, been passed on the said application for withdrawal till date. It does appear, however, that he was granted a temporary licence to quarry the mineral.

While matters stood thus, the partnership firm invoked the jurisdiction of this Court contending that the appellant (8th respondent in the writ petition) was illegally quarrying the mineral. On his notice being drawn to the fact that a temporary licence was issued, the Learned Single Judge suspended the order of the Assistant Director of Mines and Geology granting temporary permission to the appellant (8th respondent in the writ petition) for excavation and transportation of gravel.

While Sri K.R.Koteswara Rao, learned counsel for the appellant, would submit that the appellant was coerced to withdraw his earlier application, and the respondent-writ petitioner had played fraud, these are all matters which can only be agitated after the appellant files a counter-affidavit in the writ petition.

The appellant can place all relevant facts, by way of a counter-affidavit, before the Learned Single Judge to establish that he was forced to withdraw his earlier application under coercion, or that the respondent-writ petitioner had played fraud. It is not as if the appellant would suffer substantial prejudice, if suspension of the temporary licence were not to be interdicted for the present, as the hillock would always be available for quarrying of stone metal even later. We see no reason, therefore, to interfere with the order under appeal. Suffice it to make it clear that we have not expressed any opinion on merits, and it is open to the appellant (8th respondent in the writ petition) to raise all such contentions, as are available to him in law, by filing a petition to vacate the interim order.

The Writ Appeal is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(GUDISEVA SHYAM PRASAD, J)

20th December, 2017
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