

THE HON' BLE DR. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.3229 OF 2018

ORDER:

The action of the 3rd respondent in seizing the Poclain Tata Hitachi – EX-70 bearing No.0703 3531 belongs to the petitioner on the allegation of transporting the sand illegally and clandestinely from the unauthorized reach is under challenge in the present writ petition.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Mines and Geology for the respondents.

3. The learned Government Pleader submitted that pursuant to the Mines and Minerals (Development and Regulation) Act, 1957 and the A.P. Minor Mineral Concession Rules, 1966, by substitution of Rule 9-B, with effect from 29.03.2016, covered by G.O.Ms.No.42, illegal and unauthorized excavation of the sand from the prohibited areas within 500 metres from ground water structures, bridges, dams, railway lines and cross drainage structures and its transportation is liable for penalty of Rs.1,00,000/- to the owner of the vehicle and also confiscation of the vehicle besides the imprisonment upto two years and the seizure of the subject vehicle is pursuant to the violation of the said amended Rule 9-B.

4. Having regard to the above, whether there is a violation or not, he is liable for penalty and confiscation of the vehicle and for any penal consequences of imprisonment or not is a matter to be agitated in the proceedings stated already initiated are under process.

5. Having regard to the nature of controversy and in view of the submissions made by both the parties, without prejudice to the defence of the writ petitioner, this writ petition is disposed of, however, by giving interim custody of the vehicle to the petitioner subject to his furnishing of bank guarantee of the value to be assessed of the vehicle by the RTA concerned. Needless to say, the RTA concerned shall endorse the vehicle is only given for interim custody and inalienable on the 'C' book and also in the records till finality of the decision on the consequence of Rule 9-B of the amended Rules. Petitioner shall give undertaking not to alienate, but for, to use the vehicle without damaging the utility otherwise for release with bank guarantee.

6. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

DR. B. SIVA SANKARA RAO, J

Date: 02.02.2018
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