

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.3686 OF 2013

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed seeking to quash the proceedings against the petitioner/A.1 in O.R.No.170/2012-13, dated 28.02.2013, on the file of District Forest Officer, Rayachoti, Kadapa District, registered for the offence punishable under Rule 3 (1) of the A.P Forest Compounding and Prosecution Rules, 1969 (for short, 'the Rules').

2. Heard learned counsel for the petitioner/A.1 and the learned Additional Public Prosecutor, appearing for the 1st respondent.

3. The allegation against the petitioner/A.1, as per the complaint given by the Forest Officer, is that he was doing mining operations illegally in the land belonging to the Forest Department and thereby, committed an offence punishable under Rule 3 (1) of the Rules.

4. Learned counsel for the petitioner/A.1 would submit that the petitioner was granted Mining lease for Pyrophyllite over an extent of Ac.59.05 in Survey No.2865 of Nooliveedu Village, Galiveedu Mandal, Y.S.R.Kadapa District, for a period of twenty years i.e., from 03.05.2012 to 02.05.2032, by the Government of Mines and Geology, vide proceedings, dated 05.05.2012; that in pursuance of the said proceedings, the petitioner is carrying on mining operations in the aforesaid survey number; that the petitioner also filed a suit for grant of permanent injunction, restraining the

defendants, their successors-in-office and subordinates, from interfering with his peaceful possession and enjoyment of mining activities in the plaint schedule land; that along with the said suit, the petitioner also filed I.A.No.242 of 2012 to grant temporary injunction till disposal of the suit; that the trial Court, after considering the oral and documentary evidence on record, framed a specific issue whether the land in question is a Forest land or revenue land and answered the said issue holding that the disputed land is certainly a revenue land.

5. There is no dispute that the petitioner is doing mining operations in the subject land, pursuant to the proceedings issued by the Government vide order, dated 05.05.2012, whereunder Government accorded lease to the petitioner for a period of twenty years i.e., from 03.05.2012 to 02.05.2032. When the respondent authorities are interfering with his peaceful possession and enjoyment over the subject land, he also filed a suit and Interlocutory application. The trial Court, after considering the oral and documentary evidence on record, held that the subject land is not a Forest land and it is a revenue land. Considering the fact that the disputed land is a revenue land, no prosecution can lie against this petitioner, who is carrying on mining operation under valid lease deed. As the dispute with regard to the land belonging to the Forest Department or Revenue has been settled by Court concerned, continuation of proceeding against the petitioner/A.1 would only be an abuse of process of law.

6. Accordingly, Criminal Petition is allowed quashing the proceedings against the petitioner/A.1 in O.R.No.170/2012-13,

dated 28.02.2013 on the file of District Forest Officer, Rayachoti,
Kadapa District.

T. RAJANI, J

DECEMBER 11, 2108

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Date. 11.12.2018

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