

HON' BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

WRIT PETITION No.6305 of 2018

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, seeking the following relief:

....to issue an order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ declaring the action of the respondent no.5 in passing the orders to stop the quarrying operations and vacate the leased out area immediately in the shape of notice no.3559/ CC/ 2017, dated 1-11-2017 without issuing any notice, without calling for any explanation and without giving any opportunity of hearing to the petitioners and without looking into the extent and survey numbers of the land given on lease to the petitioners for quarrying and without conducting any enquiry, is nothing but arbitrary, illegal, null and void and also violative of Articles 14, 19 and 21 of the Constitution of India and also violative of principles of natural justice. Consequently, direct the respondents not to interfere and not to disturb the quarrying operations of the petitioners in the land leased out to them i.e. extent 8.149 hectares in sy.no.711/1 and 712 of Cherlopalle village of Owk Mandal and an extent of 3.279 hectares in sy.no.707 of Cherlopalle village of Owk Mandal, as long as the lease period is completed and to pass such other.....”

2. Heard the learned counsel for the petitioners and the learned Government Pleader for Mines and Geology for respondent Nos.1 to 5 before ordering notice to respondent No.6 and perused the prayer in the writ petition with supporting affidavit and the other material on record.

3. Respondent No.6 herein is the plaintiff in O.S.No.183 of 2012 maintained on the file of the Junior Civil Judge, Banaganapalle, for the relief of permanent prohibitory injunction against five defendants including the writ petitioners as defendants 1 and 2 and two more persons by

name B.Venkatrami Reddy and B.Sreenivasa Reddy besides respondent No.5-Assistant Director of Mines and Geology herein, no doubt in relation to Ac.5.00 cents in Sy.No.707, Cherlopalli Village covered by D-Form patta issued by Mandal Revenue Officer, Owk in R.Dis.No.106/ 97/ D dated 09.01.1998.

4. Undisputedly, there is a decree granting prohibitory permanent injunction against the defendants including the writ petitioners and respondent No.5 by respondent No.6/plaintiff. It is, pursuant to which, once the impugned proceedings are issued by the Assistant Director of Mines and Geology, to stop the quarrying operations in relation to Sy.No.707 of Cherlopalli Village, Owk Mandal, Kurnool District, including to vacate the lease area, there is nothing to interfere, but for, if at all to impugn the civil Court decree, for, one of the defendants to the decree i.e., respondent No.5 herein is bound to implement the permanent prohibitory injunction decree, leave about, even the other official respondents are not parties, once within their knowledge, they are bound to honour the decree of the Court and remedy of the writ petitioner is only to amend the decree and till then, they are bound by permanent prohibitory injunction along with defendant/ respondent No.5 herein.

5. Accordingly, this Writ Petition is disposed of, for nothing more to clarify, as the order is not extended beyond Sy.No.707 of Cherlopalli Village, Owk Mandal, Kurnool District.

6. Consequently, miscellaneous petitions, if any shall stand closed. No order as to costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 26.02.2018
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