

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal No.591 of 2018

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

This appeal, under Clause 15 of the Letters Patent, is preferred against the interim order passed by the learned Single Judge in I.A. No. 1 of 2018 in W.P. No. 10745 of 2018 dated 3.4.2018.

The 1st respondent herein filed W.P. No. 10745 of 2018 seeking a mandamus to declare the action of the Assistant Director of Mines and Geology, in continuously issuing temporary permits for the third time to the appellant-5th respondent vide proceedings dated 15.3.2018 for carrying on mining operations upto 5,000 Cubic Meters in Survey No. 1 of Raghavapuram Village, Nandigama Mandal, Krishna District, as arbitrary, illegal and contrary to Rule 9(iii) of the Andhra Pradesh Minor Mineral Concession Rules, 1966. By way of interim relief, the 1st respondent-writ petitioner sought suspension of the proceedings dated 15.3.2018.

Proceedings dated 15.3.2018 were issued in the exercise of the powers conferred under Rule 9(iii) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (hereinafter referred to as "the Rules") granting temporary permit for transport of gravel, upto 5000 Cubic Meters in Survey No. 1 of Raghavapuram Village, Nandigama Mandal, Krishna District, in favour of the appellant-5th respondent from 15.3.2018 to 14.4.2018.

On the jurisdiction of this Court being invoked, the learned Single Judge observed that, *prima facie*, grant of temporary lease to the appellant-5th respondent for the third time, without there being any apparent urgency as mentioned in Clause (iii) of Rule 9 of the Rules, was arbitrary and illegal; and, admittedly, applications for grant of

permanent quarry lease, submitted both by the 1st respondent-writ petitioner and the appellant-5th respondent, are pending for more than three months and no decision has been taken thereon.

It is wholly unnecessary for us, in an appeal filed against an interlocutory order, to examine the entitlement of the 1st respondent-writ petitioner or the appellant-5th respondent for grant of a permanent quarry lease, for these are all matters for the competent authority in the first instance, to decide. We are, however, impressed with the submission of Sri C.V.R. Rudra Prasad, learned counsel for the appellant-5th respondent, that, enclosed to the Form-B application, submitted by the 1st respondent-writ petitioner to the Deputy Director of Mines and Geology seeking grant of a quarry lease for a period of fifteen years, is a field map wherein the land for which the appellant-5th respondent sought a permanent quarry lease is shown to be distinct from the land for which the 1st respondent-writ petitioner had sought a permanent quarry lease.

Sri P. Nagendra Reddy, learned counsel for the 1st respondent-writ petitioner, would submit that, under the guise of quarrying mineral in the land for which he made an application, the appellant-5th respondent was carrying on quarry operations on land outside the earmarked area; and though no contract was awarded in his favour by the Nandigama Municipality for levelling the land, for the purpose of construction of ground plus three buildings thereon, he was nonetheless granted temporary permit.

All these matters necessitate examination in the Writ Petition. In the light of the application made by the 1st respondent-writ petitioner himself, to the Deputy Director of Mines and Geology on 22.12.2017, suffice it to modify the order of the Learned Single Judge, and direct that the appellant-5th respondent be permitted to quarry mineral, in

terms of the temporary permit granted to them, only within the area ear-marked in their favour in the field map enclosed to the application submitted by the 1st respondent-writ petitioner on 22.12.2017. The official respondents shall ensure that the appellant-5th respondent does not carry on mining operations outside the area ear-marked in their favour in the plan enclosed to the 1st respondent-writ petitioner's application dated 22.12.2017 pending further orders in the Writ Petition. It is made clear that the order now passed by us shall be an interim order in the Writ Petition, and shall not disable the official respondents from filing their counter-affidavit and seeking vacation thereof.

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

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

13th April, 2018

Pnb

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**



pnb