

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.21918 of 2006

ORDER:

This Writ Petition is filed questioning the distriant order dated 14.07.2006 of the 2nd respondent-Special Revenue Inspector, Ameerpet Mandal, Hyderabad, as illegal and arbitrary.

2. The case of the petitioner in brief is that, he is the Chief Promoter and Managing Director of M/s Wonder Granites (Private) Limited, Hyderabad; the Company has made an application to the 3rd respondent-Deputy Director of Mines and Geology, Warangal for grant of quarry lease over an extent of Ac.1.930 hectares in Sy.No.521 of Madipally Village, Thorur Mandal, Warangal District, for extracting black granite; the lease was granted by the 3rd respondent for a period of 15 years; pursuant to the proceedings of the 3rd respondent, the 4th respondent-Assistant Director of Mines and Geology, issued proceedings dated 25.02.1993, wherein it has been mentioned that the sanction has been accorded to the company to work over an extent of Ac.1.93 hectares in the above survey number for a period of 15 years from 25.02.1993 to 24.02.2008, subject to the provisions of the A.P. Minor Mineral Concessions Rules, 1966; the company entered into an agreement and the lease has been granted in favour of the petitioner-company; the company started operations and within a period of one year, the company faced lot of labour problems and also the extracted mineral was not up to the quality expected and as the quarry was not economically viable, the company has made an application to the 4th respondent on 22.03.1995 surrendering the lease; on that date, there was no arrears of dead rent; the company was under a *bona fide* impression that the application for surrender of lease was accepted; in fact, after the application for surrender, no

quarrying has been done; the petitioner received a notice from the 2nd respondent vide File No.F/1065/2003 dated 14.07.2006 purported to be distriant order under Section 8 of the Act 2/1864, wherein it has been mentioned that a sum of Rs.1,86,541/- plus 10% service charges is due by the petitioner towards mineral dues for 1993-98; the 2nd respondent has got no power to issue the distriant order and such a power has not been delegated to him under the provisions of Section 52(B) of the Revenue Recovery Act (for short 'RR Act'); the Government has issued G.O.Ms.No.66, Revenue Department dated 02.06.2005, wherein the Government has issued a notification under Section 52(B) of the RR Act empowering the 4th respondent to recover the revenue arrears of Mines and Geology Department from the defaulting local authorities and industry; in the notice that has been issued by the 2nd respondent, it is stated that the distriant order is passed for recovery of mineral dues; no notice has been given to the petitioner before passing the distriant order; the company was given the lease and if there is any alleged arrears, it is the liability of the company and not the individual; non-operation of the mine for a period of six months would lapse the lease.

3. A counter-affidavit has been filed by the 4th respondent-Assistant Director of Mines and Geology stating *inter-alia* that as per the office records, there is no such surrender letter received from the petitioner company dated 22.03.1995; the petitioner obtained permits from the 4th respondent even on 23.03.1995; the Director of Mines and Geology has served the show cause notice dated 27.11.2005 on the petitioner but the petitioner failed to give reply, the lease was determined by the Director of Mines and Geology vide proceedings dated 15.04.1996 and the petitioner is due a sum of Rs.76,442/- with interest at 24% p.a. as per the provisions of the AP MMC Rules, 1996; the 4th respondent vide letter dated 14.05.1996 requested the petitioner to pay the dues up to the

determination of quarry lease i.e. 15.04.1996; the petitioner did not pay the amount; subsequently, the 4th respondent submitted proposals to the District Collector, Warangal vide letter dated 21.09.1997 to collect the mineral revenue dues under the RR Act; the Government delegated the powers to the 4th respondent for collection of mineral revenue arrears under RR Act by issuing G.O.Ms.No.66 Revenue Department dated 02.06.2005 and prays for dismissal of the writ petition.

4. The 1st respondent-Mandal Revenue Officer, Ameerpet Mandal also filed his counter-affidavit stating *inter-alia* that Section 5 of the R R Act, 1864, empowers the Collector or any other Officer empowered by the Collector in that behalf, to proceed and recover the arrears.

5. Heard the learned counsel for the petitioner, learned Assistant Government Pleader for Revenue and the Assistant Government Pleader for Mines and Geology. Perused the record.

6. This writ petition came up for admission on 23.10.2006 and this Court granted interim stay of all further proceedings, on condition of petitioner depositing Rs.50,000/- within a period of four weeks. It is submitted by the learned counsel for the petitioner that pursuant to the said interim direction, the petitioner deposited an amount of Rs.50,000/-.

7. The main contention of the learned counsel for the petitioner is that the petitioner surrendered the lease on 22.03.1995 itself, but the arrears were determined by the Director of Mines and Geology on 15.04.1996 and the petitioner was requested to pay dues on 14.05.1996. He further submits that after ten years, the distriant order has been passed on 14.07.2007 and the said delay of ten years in passing the distriant order is not explained by the respondents. The Special Revenue Inspector (2nd respondent) does not have any power to recover the arrears, as the

powers have been delegated to the Assistant Director of Mines and Geology, Warangal (4th respondent) for collection of such arrears as per Section 52(B) of the Revenue Recovery Act by issuing G.O.Ms.No.66 dated 02.06.2005. He also submits that the company is the lessee and not the petitioner, but the distriant order is issued to the individual.

8. After arguing the matter for some time, learned counsel for the petitioner submits that, he would file a representation before the concerned authority i.e., Deputy Director of Mines and Geology, Warangal (3rd respondent), within two weeks from the date of receipt of a copy of the order and requested the Court to direct the Deputy Director of Mines and Geology, to dispose of the said representation in accordance with law by passing appropriate orders, for which the learned Assistant Government Pleader has acceded.

9. In view of the same, the petitioner is directed to submit a representation to the Deputy Director of Mines and Geology, Warangal- 3rd respondent, within two weeks from the date of receipt of a copy of this order and on receipt of such representation from the petitioner, the 3rd respondent is directed to consider the objections of the petitioner and pass appropriate orders thereon in accordance with law. Till the date of passing of the order by the 3rd respondent on the representation of the petitioner, there shall be stay of all further proceedings.

10. The writ petition is accordingly disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

Date: 12.07.2018
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KONGARA VIJAYA LAKSHMI, J

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

113

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