

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.29372 of 2018

ORDER:

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

The alleged inaction on the part of the official respondents in responding to the legal notice/representation, dated 14.03.2016, for cancellation of mining lease granted in favour of the unofficial respondent, vide G.O.Ms.No.74, Industries and Commerce (M-I) Department, dated 30.07.2010, is under challenge in the present Writ Petition.

Admittedly, the petitioner herein instituted O.S.No.252 of 2014 on the file of the VII-Additional District Judge, Gudur, against the unofficial respondent herein and others. In the said suit, the petitioner herein also moved I.A.No.89 of 2015 under the provisions of Order 39 Rules 1 and 2 read with Section 151 of C.P.C., for temporary injunction to restrain the defendants therein from alienating the suit schedule properties. The learned VII-Additional District Judge, vide Order, dated 19.09.2016, allowed the said application, granting injunction directing the defendants not to alienate the suit schedule properties till the disposal of the suit. As against the said Order of injunction granted by the learned VII-Additional District Judge, the matter was carried in C.M.A.No.814 of 2016 before this Court by the unofficial respondent and the Division Bench of this Court dismissed the said C.M.A.No.814 of 2016 by way of an Order, dated 23.01.2017. The grievance of the petitioner, in this background, is that despite notice got issued by the petitioner herein as long back as on

14.03.2016, requesting for cancellation of the mining lease, granted in favour of the unofficial respondent, the respondents are not taking any action for cancellation.

Admittedly, the suit instituted by the petitioner herein along with others is pending on the file of the VII-Additional District Judge, Gudur, for partition. Unless the rights in the suit are decided, the petitioner herein cannot seek any relief in respect of the subject land. Admittedly, in the case on hand, the authorities granted mining lease as long back as on 30.07.2010. In view of the pendency of the suit, in the considered opinion of this Court, the petitioner here cannot be permitted to pursue the remedies simultaneously before the Civil Court and before this Court under Article 226 of the Constitution of India. However, it is open for the petitioner herein to pursue the above mentioned suit and seek appropriate remedy in the pending suit, if the petitioner is advised to do so.

With the above observations, the Writ Petition stands disposed of. There shall be no order as to costs.

Miscellaneous Petitions pending consideration, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date:20.08.2018
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