

**HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**WRIT PETITION No.39939 OF 2018**

**ORDER:**

1. This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking issuance of a writ of *Mandamus* declaring the action of the respondents 2 and 3 in detaining the vehicles bearing Nos.AP 26 TA 6786 and AP 07 TF 5769, since 23.10.2018, as arbitrary, illegal, without the authority of law and violative of Articles 14 and 300A of the Constitution of India and, consequently, direct the respondents 2 to 4 to release the vehicles forthwith by unloading the goods.

2. Heard learned counsel for the petitioners, learned Government Pleader for Mines and Geology, and learned Standing Counsel for the 4<sup>th</sup> respondent - Committee.

3. The averments in the affidavit, filed in support of the Writ Petition, show that the petitioners herein, who are the owners of the aforesaid vehicles, gave their vehicles on hire to one G. Nageswara Rao of Martur for transportation of carved granite stones from Martur, Andhra Pradesh to Sri Lakshminarasimha Swamy Temple, Yadhagirigutta, Telangana. On 23.01.2018 while the goods were under transportation, the Deputy Assistant Commissioner-II, Kothapet Circle, Narasaraopet, Guntur District, 3<sup>rd</sup> respondent herein, stopped the vehicles at Chilakaluripeta, Guntur District, checked the consignment, and detained the two vehicles along with the goods for want of further enquiry and issued FORM GST MOV-06 to the drivers of the vehicles with a direction to park the said vehicles at the Market Yard of Chilakaluripeta Agricultural Market Committee, under the safe custody of 4<sup>th</sup> respondent. It is stated that the petitioners herein informed about detention of those two vehicles to Nageswara Rao, who hired the two vehicles, and made a request to see that the vehicles be

allowed to proceed at the earliest. It is stated that the 3<sup>rd</sup> respondent, who detained the vehicles, also has referred the matter to the 2<sup>nd</sup> respondent for verification of payment of seigniorage fee *etc.*

4. The grievance of the petitioners appears to be that no notices have been served on them, till date, though the vehicles are being detained since 23.10.2018. Learned counsel for the petitioners further submit that the goods under transportation are carved stone sculptures, for the purpose of ongoing construction works at Sri Lakshminarasimha Swamy Temple, Yadagirigutta, Telangana, and the same are duly accompanied by a certificate issued by the Executive Officer of Sri Lakshminarasimha Swamy Temple at Yadagirigutta. Hence, neither the Commercial Tax authorities nor the authorities under the Mines and Geology Department have any power to seize the vehicles. The counsel further submits that the petitioners have no objection to detain the goods and proceed further in accordance with law and only pleads for release of the vehicles.

5. On the other hand, learned Government Pleader for Mines and Geology would contend that show-cause notices, dated 01.11.2018, were issued by the 2<sup>nd</sup> respondent, calling for explanation as to why action should not be initiated against the petitioners to collect normal seigniorage fee together with market value, as the mineral is being transported without any evidence of Transit Form/Passes in violation of Rule 26 of Andhra Pradesh Minor Mineral Concession Rules 1966 and APMDL Rules, 2017 APMDL Rules, 2017 articulated in G.O.Ms. No.17, Industries and Commerce (M.II) Department, dated 29.10.2018.

6. From the above, it is clear that the impugned proceedings came to be initiated by the Assistant Director of Mines and Geology, Vigilance, Guntur, who is the 2<sup>nd</sup> respondent herein, for collection of normal

seigniorage fee together with market value for violation of the relevant provisions of law mentioned there under.

7. The request of the petitioners is only confined to release of the vehicles, after unloading the goods under transportation, which are carved granite stone sculptures.

8. Learned counsel for the petitioners submits that the goods under transportation are only carved granite stones *i.e.*, sculptures for the purpose of ongoing constructions works at Sri Lakshminarasimha Swamy Temple, Yadagirigutta, and the show-cause notices dated 01.11.2018 issued by the 2<sup>nd</sup> respondent indicate that the goods under transportation are Granite (Temple Stones/Monuments), in the name and style of M/s.Royal Traders, Martur. Moreover, record also shows that the technical staff measured the mineral material, which according to them, is black pearl granite (monumental).

9. From the above, it is clear that the nature of the goods under transportation are finished goods. It is urged that the petitioners, who are owners of the vehicles, have not disclosed the source from which they had procured the finished goods or, if they are the manufacturers of the finished products and whether mineral revenue has been paid on the mineral used in the production/manufacture of these finished products.

10. In view of the order of this Court in W.P. No.18030 of 2016, dated 15.06.2016, and as the petitioners only gave their vehicles on hire, ends of justice would be met if the respondents are directed to release the vehicles forthwith on the petitioners furnishing details of the persons, who transported the goods in their vehicles. As the petitioners have only sought for release of the vehicles, it is made clear that this order shall not preclude the respondents from detaining the goods, and thereafter taking

action in accordance with law. It is also made clear that this order shall not preclude the respondents, if they so choose, from instituting criminal proceedings against the transporter of the vehicles in accordance with Rule 26(3)(ii) of the Rules.

11. With the above direction, the Writ Petition is disposed of. No order as to costs.

12. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed in consequence.

Date: 14.11.2018.  
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**C. PRAVEEN KUMAR, J**



**HON'BLE SRI JUSTICE C. PRAVEEN KUAMR**

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