

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6312 of 2019

ORDER:

The petitioners pray this Court to exercise its jurisdiction under Article 226 of the Constitution of India and issue a Writ of Mandamus directing respondents 3 to 5 to release their JCB Vehicles bearing Nos.TS 05EX 5017 and AP 24Y 2064.

Succinctly put, the case of the petitioners as per the writ affidavit is that one Avula Govindamma approached them on 13.02.2019 requesting to engage their vehicles for the purpose of clearing her land so as to make it suitable for cultivation. And the petitioners agreed to engage their vehicles for a rate of Rs.1,500/- per hour. The petitioners went to the site shown by Govindamma and started clearing off the land. To their dismay, the Damaracherla Forest Officials came to the site and stopped the work and seized the vehicles. It is their assertion that when the Forest Officials came to the site, Govindamma has produced documents to show that it is her land, however, the officials seized the vehicles without even conducting Panchanama, and moreover registered a case against the petitioners under the provisions of Forest Act.

Heard learned counsel for the petitioners and learned Government Pleader for Forests appearing for the respondents.

Learned counsel for the petitioners submits that the petitioners are innocent and they engaged their vehicles with a *bona fide* intention on the request made by one Avula Govindamma to make the land even for cultivation, and that the petitioners have purchased their vehicles availing loan/finance from Banks and as the vehicles are lying in the custody of the

respondents for over a month now, the petitioners are unable to pay their instalments. He further submits that the petitioners are not offenders under the Telangana Forest Act as alleged by the respondents, and therefore seeks a direction to the respondents to release the aforesaid vehicles.

On the other hand, learned Government Pleader, on the strength of the written instructions dated 27.03.2019 received from the Forest Range Officer, Miryalaguda, submits that on 13.02.2019, the Deputy Range Officer, Incharge, Damaracherla, received information that some persons have entered into the Forest land with JCB vehicles and clearing the land in an attempt to encroach the land. Immediately, he along with the Forest Beat Officer and Strike Force rushed to the spot and found two JCBs near Old Kanuga Plantation in Reserve Forest Wazeerabad clearing the trees and digging soil. And when the officials tried to stop the work, the offenders started arguing with the Officials and therefore the Forest officials, with the help of Sub Inspector of Police, Damaracherla, stopped the work, conducted Panchanama and seized the JCB vehicles and also registered a case against the offenders in POR No.26/83 dated 13.02.2019 under Section 20(1)(c)(vii) r/w Section 44 of the Telangana Forest Act.

Having considered the rival submissions, and considering the submission that the seized vehicles are lying in the premises of the respondent authorities for over a month and continuing to keep the vehicles unused for longer period would render them unfit for use, I deem it appropriate to direct the respondent authorities to release the seized JCB vehicles bearing Nos.TS 05 EX 5017, and AP 24Y 2064 subject to the condition of the petitioners furnishing security by way of Fixed Deposit Receipt (FDR) or Bank Guarantee for Rs.1,00,000/- separately for each

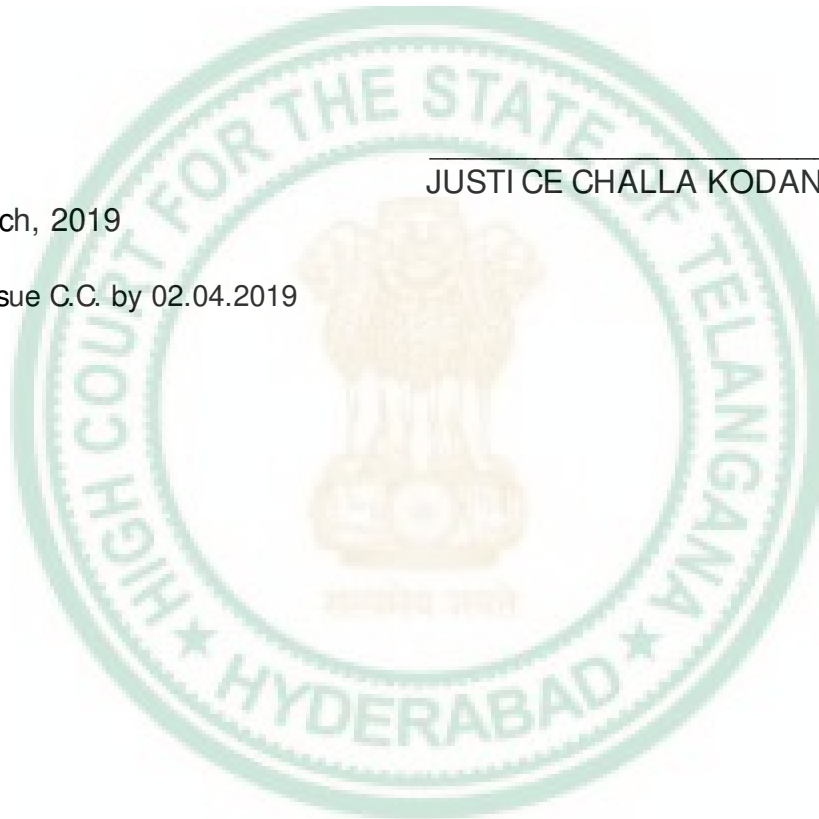
vehicle, in favour of the 3rd respondent. The other proceedings may go on. It is made clear that furnishing of security for the release of above vehicles will have no bearing on the ultimate enquiry and adjudication of the case registered in POR No.26/83 dated 13.02.2019 in terms of the provisions of the Telangana Forest Act, and the respondent authorities shall conclude the proceedings in aforesaid case within six weeks.

The writ petition stands disposed of accordingly. No costs. Miscellaneous petitions, if any pending, shall stand closed.

29th March, 2019

Note: Issue C.C. by 02.04.2019
B/o KSM

JUSTICE CHALLA KODANDA RAM



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KSM