IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF FEBRUARY, 2020

PRESENT

THE HON'BLE MR.ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION No.1376 OF 2020 (GM - MMS)

BETWEEN:

SRI S. GOPAL
S/O SUBBARAJU
AGED ABOUT 50 YEARS
PARTNER OF ROUNAQ CONSTRUCTIONS
ASHA HOUSE, 4/269
PATEL NAGAR
HOSPET POST - 583 201. ...PETITIONER

(BY SRI BIPIN HEGDE FOR
SRI ANUPARNA BORDOLOI, ADVOCATES)

AND:

1. STATE OF KARNATAKA
REP BY THE CHIEF SECRETARY
VIDHANA SOUDHA
BENGALURU
BENGALURU - 560 001.

2. THE SECRETARY TO GOVERNMENT
DEPARTMENT OF COMMERCE AND INDUSTRIES
VIKASA SOUDHA
BENGALURU - 560 001.

3. THE DIRECTOR, AND COMMISSIONER
DEPARTMENT OF MINES AND GEOLOGY

KHANIJA BHAVAN
RACE COURSE ROAD
BENGALURU - 560 001.

4. THE SENIOR GEOLOGIST
COMPETENT AUTHORITY
DEPARTMENT OF MINES AND GEOLOGY
KOPPA DISTRICT – 583 231
KARNATAKA STATE.

5. THE DEPUTY COMMISSIONER AND CHAIRMAN
DISTRICT TASK FORCE (MINES)
COMMITTEE
KOPPAL- DISTRICT - 583 231
KARNATAKA STATE. ... RESPONDENTS

(BY SRI Y.H. VIJAYAKUMAR, GA FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A. ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT SETTING ASIDE THE DEMAND NOTICE NO.GABHUE/KOKHAV/KAGAGU/2019-20/2534 DATED:30.11.2019 ISSUED BY THE RESPONDENT NO.4 CALLING UPON PETITIONER TO PAY A SUM OF RS.25,05,612/- TOWARDS ALLEGED ROYALTY ARREARS WITH RESPECT TO QUARRY LEASE NO.KPL 322/2011 FOR THE YEAR 2018-19. (ANNEXURE-A) AND ETC.

THIS PETITION COMING ON FOR ORDERS THIS DAY, ***CHIEF JUSTICE*** MADE THE FOLLOWING:

ORDER

Heard the learned counsel appearing for the petitioner.

2. Issue notice to the respondents.

3. The learned Additional Government Advocate takes notice for the respondents.

4. The petitioner by filing this writ petition under Articles 226 and 227 of the Constitution of India has taken exception to the notice dated 30th November 2019 (Annexure-A) by which he was called upon to pay arrears of royalty of Rs.24,98,400/- together with interest on the basis of quarrying lease granted to him. The petitioner was called upon to pay the amount within 30 days, failing which, amount will be recovered as if it is arrears of land tax. The petitioner by a letter dated 16th December 2019 has replied to the said demand. As the impugned notice at Annexure-A is styled as the second notice, in reply, the petitioner has stated that he had not received first notice.

5. The learned Additional Government Advocate has not placed a material on record to show that the first notice was served to the petitioner. In any case, the arrears of royalty payable by the

petitioner was not fixed after giving an opportunity of being heard to the petitioner.

6. Annexure-A has been served to the petitioner stating that if the amount is not paid, it will be recovered as if it is arrears of land tax. Therefore, it will be appropriate to issue a direction to the respondents to pass an order after considering the reply filed by the petitioner and after giving an opportunity of being heard to the petitioner.

7. Accordingly, we dispose of the petition by passing the following order:

i) We direct that the impugned notice (Annexure-A) shall be treated as a show cause notice and the letter dated 16th December 2019 (Annexure-T) shall be treated as a reply to the show cause notice;

ii) We direct the fourth respondent or the competent Authority to hear the petitioner and pass appropriate order on notice dated 30th November 2019 (Annexure-A);

iii) The order shall be passed within a period of two months from today;

iv) We make it clear that we have made no adjudication on merits. Needless to add that unless appropriate order is passed and served on the petitioner, no steps shall be taken to recover any amount as demanded in Annexure-A;

v) We dispose of the petition with the above directions.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

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