

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

MONDAY , THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND THIRTEEN

:PRESENT:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WP .NO:27385, 27882, 28092 of 2009, 28652 of 2011 and 125 of 2012

WP .NO:27385 of 2009

Between:

- 1 M/s.Laxmi S.T. Mining and Leasing labour Contractor Cooperative Society
Limited, having its office at D.No.2/150-92, Taraka Rama
nagar,Chemmumiyapet, Kadapa Mandal, and District, represented by
its
President Mr.V.Jayaram
- 2 Mr.B. Gangaiah S/o.Sri Gangulaiah, R/o.Taraka Rama Nagar,
Chemmumiyapet, Kadapa Mandal and District
- 3 Mr.V.Krishnaiah S/o.Sri Changaiah, R/o.Taraka Rama Nagar,
Chemmumiyapet, Kadapa Mandal

..... Petitioners

AND

- 1 The Divisional Forest officer, Kothagudem Khammam District
- 2 The Assistant Director, Mines and Geology, Kothagudem Khammam District
- 3 The Mandal Revenue officer, Garla Mandal Khammam District

.....Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein,the High Court may be pleased to grant an order, direction or writ, more so in the nature of writ of mandamus declaring the impugned proceedings of the first respondent bearing No.4202/2009/A5(i) dated 30.11.2009 as illegal, arbitrary, highhanded and violative of Article 14 and 21 of the Constitution of India and consequently set aside the same and further direct the first respondent not to interfere with the mining activity of the first petitioner society under the lease granted to it, over the land of about 55 acres of land in survey No.57 and 58 of Pocharam village, Garla Mandal, Khammam District.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed herein and upon hearing the arguments of SRI B. Naryana. Reddy Advocate for the Petitioner, GP for Forest for Respondent No.1, GP for Mines & Geology for Respondent No.2 and of GP for Revenue for Respondent No.3.

WP .NO: 27882 of 2009

Between:

M/s. Viswabharathi Mining Corporation Garla, Garla PO and Mandal,
Khammam District, A.P. Rep. by its Managing Partner Mr. S.V. Shiva
Reddy
S/o. Shanker Reddy, 42 yrs

..... Petitioner

AND

- 1 The Government of Andhra Pradesh Forest Department, Secretariat,
Hyderabad Rep. by its Secretary
- 2 The Government of Andhra Pradesh Revenue Department, Secretariat,
Hyderabad, Rep. by its Secretary
- 3 The District Collector Khammam District.
- 4 The Divisional Forest Officer Kothagudem, Khammam District.

- 5 The Assistant Director of Mines and Geology Kothagudem,
Khammam District.
- 6 The Assistant Director, Survey and Land Records Khammam District.
- 7 The Tahsildar, Garla Mandal, Khammam District.

.....Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus declaring order of the 4th respondent dt. 30-11-2009 in Rc No. 3916/2009/A6 restraining the Petitioner from conducting mining operations over an extent of 123.076 Hectares in Sy.No. 76 of Seripuram Village, Garla Mandal, Khammam District despite the petitioner holding the lease under lease deed dt. 12-5-2009 executed by the 5th respondent to conduct mining of barytes mineral for a period of 20 years as arbitrary illegal, unjust violative of principles of natural justice violative of the Fundamental Rights guaranteed to the petitioner under Articles 14,19 and 21 of the Constitution of India and consequently set aside the same and direct the respondents to permit the petitioner to conduct mining operations and transport the barites.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed herein and upon hearing the arguments of SRI N. MOHAN KRISHNA, Advocate for the Petitioner, GP for Forest for Respondent No.1 & 4 GP for Revenue for Respondent No.2,3,6,7 and of GP for Mines & Geology for Respondent No.5.

WP .NO: 28092 of 2009

Between:

1. M/s. The Pocharam Tribal Mining Cooperative Society Limited Having its
office at Kotya Naik Thanda Village, Pocharam (post), Garla Mandal,
Khammam District, represented by its Chairman Mr. Bhukya Badru.
2. Bhukya Kishan, S/o. Bhukya Venkataiah, R/o. Ho. 5-70, Kotya Naik

Thanda

Village, Pocharam (post), Garla Mandal, Khammam District.

3. Jatotu Kotya, S/o. Jajotu Dasru, R/o. Ho. 5-88/1, Kotya Naik Thanda Village,

Pocharam (post), Garla Mandal, Khammam District.

..... Petitioners

AND

1 The Divisional Forest Officer Kothagudem, Khammam Dist

2 The Assistant Director Mine & Geology Kothagudem, Khammam Dist

3 The Mandal Revenue Officer Garla(M), Khammam Dist

..... Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to grant an order, direction or writ, more so in the nature of writ of mandamus, declaring the impugned proceedings of the first respondent bearing No.4203/2009/A5 (ii) dated 30.11.2009 as illegal, arbitrary, highhanded and violative of Article 14 and 21 of the Constitution of India and consequently set aside the same and further direct the first respondent not to interfere with the mining activity of the first petitioner society under the lease granted to it, over the land of about 55 acre of land in Survey No.57 and 58 of Pocharam Village, Garla Mandal, Khammam District.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI B. NARAYANA REDDY, Advocate for the Petitioners, GP for Forest for Respondent No.1, GP for Mines and Geology for Respondent No.2 and of GP for Revenue for Respondent No.3. .

-
-
-
-
-

WP .NO: 28652 of 2011

-

Between:

M/s. Sri Kanaka Durga Tribal Labour Contract Mutually Aided Co-operative Society, (Regd.No. AMC/KMM/DCO/687/2007) Garla Village and Mandal, Khammam District, rep. by its President & Authorized Signatory Paltya Moni

..... Petitioners

AND

1 The Government of Andhra Pradesh, Forest Department, rep. by its Secretary, Secretariat, Hyderabad.

2 The Government of Andhra Pradesh, Revenue Department, rep. by its Secretary, Secretariat, Hyderabad.

3 The District Collector, Khammam District.

4 The Conservator of Forests / Divisional Forest Officer, Kothagudem, Khammam District.

- 5 The Assistant Director of Mines & Geology, Kothagudem, Khammam District.
- 6 The Assistant Director, Survey & Land Records, Khammam
- 7 The Tahsildar, Garla Mandal, Khammam District.

.....Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 4th respondent and his subordinates in interfering with the leasehold rights of the petitioner and further passing order dated 27.05.2011 in Rc.No.4205/2009/A5, directing the petitioner not to conduct mining activity at Sy.No.58, admeasuring Ac.102.00 of Pocharam Village, Garla Mandal, Khammam District and treating the said land as forest land, as arbitrary, illegal, unjust, violative of principles of natural justice, violative of the Fundamental Rights guaranteed to the petitioner under Articles 14, 19 and 21 of the Constitution of India and consequently set aside the same and direct the respondents to permit the petitioner to conduct mining operations and transport the barytes and dolomites as per the lease deed dated 11.01.2010.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed herein and upon hearing the arguments of SRI C.V. R. RUDRA PRASAD, Advocate for the Petitioner, GP for Forest for Respondent Nos.1 & 4, GP for Revenue for Respondent Nos.3,6,7and of GP for Mines & Geology for Respondent No.5, the Court made the following.

-
WP .NO: 125 of 2012

-
Between:

M/s. Indian Barytes & Chemical Ltd Rep by its Director, S.V. Shiva Reddy,
S/o. Shanker Reddy, Regd Office at 3/433, Rajareddy Street, Kadapa
R/o. Villa No. 23, Aditya Fortueiew, Puppalguda, Hyderabad 89

..... Petitioner

AND

- 1 The Government of Andhra Pradesh Rep by its Secretary, Forest Department, Secretariat, Hyderabad
- 2 The Government of Andhra Pradesh Rep by its Secretary, Revenue Department, Secretariat, Hyderabad.

- 3 The District Collector, Khammam District
- 4 The Divisional Forest Officer, Kothagudem, Khammam District
- 5 The Assistant Director of Mines and Geology, Kothagudem, Khammam District
- 6 The Assistant Director, Survey and Land Records, Khammam
- 7 The Tahsildar, Garla Mandal, Khammam District

.....Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to issue an appropriate writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 4th respondent in restraining the petitioner from conducting mining activities in an extent of 121.41 hectares in Sy.No. 76/1 situate at Siripuram Village, Garla Mandal, Khammam District despite the lease granted by the Government of Andhra Pradesh as arbitrary, illegal, violative of principles of natural justice, discriminatory, violative of Fundamental Rights guaranteed to the petitioner under Article 14 and 19 of the Constitution of India and consequently direct the respondents to permit the petitioner to conduct mining operations in the area leased out to the petitioner and not to interfere with its lawful business.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed herein and upon hearing the arguments of SRI C.V.R. RUDRA PRASAD, Advocate for the Petitioner, GP for Forest for Respondent Nos.1 & 4, GP for Revenue for Respondent Nos.2, 3, 6 & 7 and of GP for Mines for Respondent Nos.5 and the Court made the following.

-
ORDER:

-
-

These writ petitions are instituted by the petitioners, aggrieved by separate notices issued on different dates by the 4th respondent-Divisional Forest Officer, Kothagudem, restraining the petitioners from conducting mining operations, on the ground that the land in which the mining operations were taken up by the petitioners is a protected forest area known as Garla Reserve Forest in Khammam District. All the petitioners were granted lease at various points of time to undertake mining of barites mineral. In so far as the petitioner in W.P.No.27882 of 2009, originally the lease was granted by the Government of Andhra Pradesh vide G.O.Ms.No.15, dated 03.01.1962, in the name of one Sri G.Rama Rao and in the year 1965 the same was transferred in the name of the petitioner and the lease was extended from time to time.

The petitioners seriously dispute the stand of the Forest Department that the area, which was granted to them for

conducting mining operations, is a reserved forest area. The petitioners placed reliance on internal correspondence within the Government in support of their contention that the area in which they are undertaking mining is not a reserved forest area.

By order dated 19.03.2010 & 08.04.2010, this Court issued directions to undertake survey operations, but no proper survey was conducted and the dispute remained unresolved.

The then Nizam Government issued Gazette Notification No.218 dated 17.08.1951, notifying the area in question as protected forest area. The notification only prescribed the boundaries. Referring to the said notification, the learned Senior Counsel for the petitioners submits that it is necessary to identify the forest land by referring to the boundaries mentioned in the said notification and then identify whether the area where mining operations are conducted is within the protected forest area covered by the said notification and such exercise can be done effectively only by Survey of India.

In pursuance to earlier debate on the issue, learned Additional Advocate General requested the Government to offer its view on conducting survey of forest land by Survey of India. The learned Additional Advocate General produced letter addressed by the Prl. Chief Conservator of Forests (Head of Forest Force), Government of Andhra Pradesh, bearing R.C.No.14075/2010-F2, dated 22.07.2013, agreeing in principle to conduct survey by Survey of India for demarcation of boundaries in Garla reserved forest.

I am of the view that conducting of proper survey is necessary for identifying the area covered by the notification dated 17.08.1951 which would ensure protection of reserve forest and avoidance of future controversy instead of leaving to the whims of local officers of various departments of Government

and for proper adjudication in all these writ petitions.

Therefore, a direction is issued to Survey of India to undertake survey of the Garla reserve forest area in accordance with the boundaries specified in notification No.218 of 17.08.1951 to identify the area covered by the said notification with particular reference to the area where mining operations are undertaken by the petitioners in Seripuram Village, Khammam District. The Prl. Chief Conservator of Forests shall coordinate with the Survey of India for undertaking the said survey on behalf of the State Government. The petitioners and Government of A.P. shall bear the expenditure for undertaking the said survey operations in equal proportion. The Prl.Chief Conservator of Forests shall immediately nominate one of the senior IFS officers to co-ordinate with Survey of India and petitioners and participate in survey operations. Similarly, petitioners shall also nominate a person who shall co-ordinate with Government Official nominated and the Survey of India officials. The Prl. Chief Conservator of Forests shall make available all relevant documents and record to Survey of India. Survey of India shall undertake the survey with the modern equipment as available to identify the exact area of reserved forest as per the said notification with particular reference to the area where mining operations are undertaken by the petitioners. This exercise shall be completed and report be filed in this Court within three months from the date of receipt of a copy of this order.

The Officer nominated by the Prl. Chief Conservator of Forests shall estimate costs of such survey in consultation with the Director, Survey of India, Hyderabad, and intimate the same to the petitioners. On receipt of such information, petitioners shall deposit their contribution within a week thereof.

The Survey of India shall inform the representatives of the

petitioners as well as the Prl.Chief Conservator of Forests the date/dates when survey operations are proposed to be taken up and the survey shall be conducted in their presence.

The Registry shall communicate a copy of this order to the Director, Survey of India, Ramanthapur, Hyderabad.

Post all the Writ Petitions on 30.12.2013.

Sd/- P.V.K. SATYANARAYANA

-

ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To

1. The Director, Survey of India, Ramanthapur, Hyderabad (**Special Messenger**)
- 2 The Divisional Forest officer, Kothagudem Khammam District
- 3 The Assistant Director, Mines and Geology, Kothagudem Khammam District
- 4 The Mandal Revenue officer, Garla Mandal Khammam District
- 5 The Secretary, Forest Department, Government of Andhra Pradesh Secretariat, Hyderabad.
- 6 The Secretary, Revenue Department, Government of Andhra Pradesh, Secretariat, Hyderabad.
- 7 The District Collector Khammam District.
9. The Principal Chief Conservator of Forest, State of A.P., Hyderabad.
- 10 The Tahsildar, Garla Mandal Khammam District.
- 11 The Assistant Director, Survey and Land Records Khammam District.
- 12 The Conservator of Forests / Divisional Forest Officer, Kothagudem, Khammam District.
13. The Director, Survey of India, Ramanthapur, Hyderabad
(1 to 9 by RPAD)
14. Two CC to GP for Revenue, High Court of A.P., Hyderabad (OUT)
15. Two CC to GP for Forest, High Court of A.P., Hyderabad (OUT)
16. Two CC to GP for Mines & Geology, High Court of A.P., Hyderabad (OUT)
17. One CC to SRI V.R. REDDY KOVVURI, Advocate (OPUC)
- 18 One CC to SRI N. MOHAN KRISHNA, Advocate (OPUC)
19. One CC to SRI B. NARAYANA REDDY, Advocate (OPUC)
20. One CC to SRI C.V.R. RUDRA PRASAD, Advocate (OPUC)
21. One CC to Sri R. Raghunandan, Advocate (OPUC)
- 22 One spare copy.

Note: Para =7 of the order dated 23-9-2013 in WP Nos.27385, 27382, 28092 of 2009, 28652 of 2011 and 125 of 2012 is corrected as per the

order of the Court dated 4-2-2014 made in WPMP No.38870 of 2013 in WP No.27882 of 2009 and WP No.46763 of 2013 in WP No.27385 of 2009, substitute this amended order in place of the previous order which was already dispatched on 1.10.2013.

Sd/- K. BHASKARA RAO

ASSISTANT REGISTRAR

HIGH COURT

PNRJ

ORDER

DATED: 23-09-2013

AMENDED ORDER DATED 4-02-2014

**WP .NO:27385, 27882, 28092 of 2009,
28652 of 2011 and 125 of 2012**

POST ALL THE WRIT PETITIONS ON 30-12-2013

DRAFTED: TVR
DATED: 27-09-2013

HIGH COURT

PNRJ

ORDER

DATED: 23-09-2013

**WP .NO:27385, 27882, 28092 of 2009,
28652 of 2011 and 125 of 2012**

POST ALL THE WRIT PETITIONS ON 30-12-2013