

APHC010714452022



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3310]

FRIDAY ,THE EIGHTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NOs. 42362 of 2022, 10873 and 10890 of 2023

WRIT PETITION NO: 42362 OF 2022

Between:

Kokku Usha and Others

...PETITIONER(S)

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner(S):

1.KAMBHAMPATI RAMESH BABU

Counsel for the Respondent(S):

1.GP FOR MINES AND GEOLOGY

2.P DURGA PRASAD

The Court made the following:

COMMON ORDER:-

Writ Petition No. 42362 of 2022 is filed under Article 226 of the
Constitution of India

*"to issue a Writ or Order or Direction more particularly one in the
nature of Writ of Mandamus to declaring the i) Proceedings No.6420/D8/2020,
dated .03 2022 issued by the 2nd respondent and all consequential
proceedings in respect of grant quarry lease for Silica Sand over an extent of*

4.156/10.27 Acres in Sy.No.539-1 (1.25 acres), 539-2 (4.49 acres) and 539-3 (4.53 acres) of Ballavolu Village, Chillakur Manal, Tirupati District in favour of the 8th respondent without considering the fact that the petitioners are cultivating the said lands since long time and without determining compensation under Rule 72 of the Mineral Concession Rules, 1960 and ii) the action of respondents 5 to 7 in not considering the representation of the petitioners dated 06.05.2022 as illegal, arbitrary, malafide, ultra vires, violative of principles of natural justice and contrary to law apart from being violative of Articles 21 and 300-A of the Constitution of India and consequentially i) set aside the Proceedings No 6420/D8/2020, dated 03.2022 issued by the 2nd respondent and all consequential proceedings in respect of grant quarry lease for Silica Sand over an extent of 4.156/10.27 Acres in Sy.No.539-1 (1.25 acres), 539-2 (4.49 acres) and 539-3 (4.53 acres) of Ballavolu Village, Chillakur Manal, Tirupati District in favour of the 8th respondent and ii) direct the respondents 5 to 7 to take appropriate action on the representation of the petitioners dated 06.05.2022 in the interest of justice and pass such other and further orders”.

Writ Petition No.10873 of 2023 is filed under Article 226 of the Constitution of India

“to issue a Writ or Order or Direction more particularly one in the nature of Writ of declaring the Proceedings No.6419/D8/2020 dated 24.03.2022 issued by the 2nd respondent and all consequential proceedings in respect of grant quarry lease for Silica Sand over an extent of 9.62 acres in Sy.No. 561 (3.99 Acres and 562 (5.63 acres) of Ballavolu Village, Chillakur Mandal, Tirupati District in favour of the 8th respondent as illegal, arbitrary, malafide, ultra vires, violative of principles of natural justice and contrary to law apart from being violative of Articles 21 and 300-A of the Constitution of India and consequentially set aside the Proceedings No.6419/D8/2020 dated 24.03.2022 issued by the 2nd respondent and all consequential proceedings in respect of grant quarry lease for Silica Sand over an extent of 9.62 acres in Sy.No. 561 (3.99 Acres and 562 (5.63 acres) of Ballavolu Village, Chillakur Mandal, Tirupati District in favour of the 8th respondent and to pass such other and further orders”.

Writ Petition No.10890 of 2023 is filed under Article 226 of the Constitution of India

“to issue a Writ or Order or Direction more particularly one in the nature of Writ of Mandamus declaring the Proceedings No 117/D8/2020, dated 24.03.2022 issued by the 2nd respondent and all consequential proceedings in respect of grant quarry lease for Silica Sand over an extent of 4.435 Hectares in Sy.No.496-1(P) of Ballavolu Village, Chillakur Mandal, Tirupati District in favour of the 8th respondent as illegal, arbitrary, malafide, ultra vires, violative of principles of natural justice and contrary to law apart from being violative of Articles 21 and 300-A of the Constitution of India and consequentially set aside the Proceedings No.117/D8/2020, dated 24.03.2022 issued by the 2nd respondent and all consequential proceedings in respect of grant quarry lease for Silica Sand over an extent of 4.435 Hectares in Sy.No.496-1(P) of Ballavolu Village, Chillakur Mandal, Tirupati District in favor of the 8th respondent and to pass such other and further orders”.

2. Heard Mr. Kambhampati Ramesh Babu, learned counsel for the petitioners and learned Assistant Government Pleader, Mines and Geology for the official respondents and Mr. P. Durga Prasad, learned counsel for the 8th respondent.

3. These Writ Petitions arise out of the same issue and therefore are being disposed of by a common order.

4. The main grievance of the petitioners in they are agricultural coolies and cultivating the subject lands by making it fit for cultivation by investing huge money. The 8th respondent along with their men restraining them from cultivating the lands under the guise of quarry lease granted to 8th respondent. Thereby the petitioners requested the official respondents not to grant any

quarry leave in respect of subject lands as they are eking out their livelihood. They came to know that the 2nd respondent passed impugned orders granting quarry leave for Silica Sand over the subject lands in favour of the 8th respondent. It is further contended that as per Rule 72 of Mineral Concession Rules, 1960 (in short 'the rules') the holder of the mining lease shall be liable to pay the mining lease such as annual compensation as determined by an officer appointed by the State Government. However, without determining the compensation and without payment of the compensation mining lease was granted in favour of the 8th respondent. Based on the same, the 8th respondent is trying to evict the petitioners forcibly, which is highly illegal and arbitrary. Hence the present writ petitions came to be filed.

5. *Per contra*, the respondents 1 to 4 have filed counter-affidavit, denying all material averments made in the writ affidavit and mainly contended that the Mining Department has granted the quarry lease for the subject land for a period of 20 years in favour of the 8th respondent vide proceedings dated 21.04.2022 and executed the lease deed in Form-G. The petitioners have to prove that they have a right over the Government land by cultivating the subject land. Since the subject land is a Government land and the petitioners does not have any right, title over the same and that the respondents does not have authority to pay compensation to them. Therefore, requested to dismiss the writ petitions.

6. *Per contra*, 7th respondent filed counter-affidavit denying all material allegations made in the writ petitions and mainly contended that the Mining Department has granted the quarry lease for the subject land to the 8th respondent. When the 8th respondent try to excavate the silica from the mining lease area, the cultivators and other villagers have objected with a plea that the land is under their effective possession and enjoyment from long time and they filed W.P.Nos.10890 of 2023 and 10873 of 2023 before this Court to set aside the impugned proceedings dated 24.03.2022 issued by the 2nd respondent and obtained interim orders. The 6th respondent (RDO) has inspected the land and noted that there are encroachments on the lease lands granted to the 8th respondent and issued instructions to the 7th respondent to conduct survey and submit a report. As per survey report the petitioners and others are cultivating the land by raising groundnut crop in the mining lease granted to the 8th respondent by encroachment. Generally mining lease granted to the interested companies/ individuals for the land free from encroachment. In the instant case, the subject land is already under possession and enjoyment of the petitioners since long time and matter is being pending adjudication before this Court, hence the 7th respondent has not issued any notice to the writ petitioners under A.P. Land Encroachment Act, 1905. It is further contended that even though the Sivajamdars are eligible for grant of Government land under Darakasth Rules (except petitioner No.3 in W.P.No.42362 of 2022) and the land is under the peaceful possession and enjoyment of the petitioners and others and the subject matter is pending

before this Court. The Tahsildar has issued status report, but not issued No Objection Certificate. The 7th respondent has submitted a report to the District Collector for cancellation of Mining Lease granted in favour of the 8th respondent, which is under consideration. Therefore, requested to dismiss the writ petitions.

7. The 8th respondent filed counter-affidavit and *inter alia* contended that this respondent submitted Approved Mining Plan (AMP) vide letter dated 25.06.2021 approved by the Deputy Director of Mines and Geology, Nellore, Environment Clearance (EC) issued by the State Level Environmental Impact Assessment Authority, Vijayawada vide order dated 09.02.2022 and Consent for Establishment (CFE) issued by the Zonal Joint Chief Environmental Engineer, APPCB, Vijayawada vide order dated 05.03.2022. After complied with all the above, the 2nd respondent granted quarry lease in favour of the 8th respondent. After obtaining the quarry lease for Silica Sand over the subject land for a period of 20 years, the 8th respondent conducting the mining operations in the leased area under supervision of official respondents, therefore the plea of restraining the petitioners from cultivating the land under the guise of quarry lease is not sustainable. Therefore, requested to dismiss the writ petitions.

6. Perused the records.

7. The 7th respondent/ Tahsildar has placed on record the copy of Adangal Report would show that Sy.No.539/1, 539/2, 539/3 is classified as

Government land. Further the Tahsildar has submitted a report dated 27.04.2023 to the District Collector would show as per Survey Enjoyment for Survey Numbers, the petitioners are cultivating the subject land by raising Ground nut crop therein. Further in the said report, it is mentioned that out of mining lease extent of Ac. 10.96 cents, an extent of Ac. 9.31 cents is DKT lands cultivated ground nut by the assignees and remaining an extent of Ac. 1.65 cents is cultivating ground nut by the encroachers. Further with regard to Sy.No. 561/3, 6, 7 total an extent of Ac. 3.99 cents verified through village records, wherein it was found that an extent of Ac. 4.00 cents in Sy.No.561 granted D-Form Patta to the four beneficiaries as per D-Register. Out of mining lease extent of Ac. 3.99 cents, which is a DKT land cultivated ground nut by the assignees therein. So also, other survey numbers of the subject land are concerned the encroachers and other assignees were raising groundnut crop therein.

8. Therefore, the report of the 7th respondent would clearly vitiates that the subject lands being encroached and are being cultivating by small and marginal farmers and eking out their livelihood. Therefore, the 7th respondent by noting all the ground realities and submitted a report that the subject land is not feasible for grant of silica quarry lease and finally recommended for cancellation of lease granted in favour of the 8th respondent.

9. In the instant case, it is apparent on the face of the report submitted by the 7th respondent that the petitioners are doing cultivation in the subject

land. The very fact has brought to the notice of the 2nd respondent as per report by 7th respondent, but ignoring the same and issued lease proceedings in favour of the 8th respondent. The petitioners being the possessors of the land for a long time and being sivajimdars, are entitled for grant of pattas pas per Para 15 of Board Standing Orders. Though they made a representation to the respondents 5 to 7 with a request to prevent the mining operations in the subject land, but having received the same, no action has been initiated so far by the respondents, which is highly illegal and arbitrary as contended by the learned counsel for the petitioners.

10. In view of the rival contentions in between the petitioners and the 8th respondent, the official respondents are directed to conduct proper survey over the subject land by taking into consideration of the objections dated 05.06.2022 raised by the petitioners and after thorough examination on ground and also documents, the official respondents are directed to pass appropriate reasoned order in accordance with law, within a period of three (03) months from the date of receipt of a copy of this order. The impugned orders passed by the 2nd respondent in all the writ petitions shall be kept in abeyance, till finality of enquiry proceedings by the respondents.

11. With the above direction, this Writ Petitions are disposed of. There shall be no order as to costs.

12. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

DR. JUSTICE K. MANMADHA RAO

Dated:18.10.2024.

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