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 Date of pronouncement : 19.06.2026  
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APHC010402272023



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

**[3459]**

FRIDAY, THE NINETEENTH DAY OF JUNE  
 TWO THOUSAND AND TWENTY SIX

**PRESENT**

**THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM**

**WRIT PETITION NO: 20798/2023**

**Between:**

1.M/S. LARSEN AND TOUBRO LIMITED, A COMPANY INCORPORATED UNDER THE LAWS OF INDIA, HAVING ITS REGISTERED OFFICE AT L AND T HOUSE, BALLARD ESTATE, MUMBAI - 400 001, WITH ITS CONSTRUCTION DIVISION (LANDT CONSTRUCTION), WATER AND EFFLUENT TREATMENT, HAVING OFFICE AT TC-3 BUILDING, TOWER B, SRD FLOOR, MOUNT PONAMALLEE ROAD, MANAPAKKAM, P.B. NO. 979, CHENNAI - 600 089, REP. BY ITS PROJECT MANAGER, MR. KOTHAPALLI CHINNA RAJU, VSP-AWSR PROJECT, VISAKHAPATNAM - 530032, ANDHRA PRADESH

**...PETITIONER**

**AND**

1.THE UNION OF INDIA, REP. BY ITS SECRETARY INDUSTRIES AND COMMERCE DEPARTMENT NEW DELHI.  
 2.M/S RASHTRIYA ISPAT NIGAM LIMITED, (A GOVERNMENT OF INDIA UNDERTAKING) VISAKHAPATNAM STEEL PLANT VISAKHAPATNAM - 530032 REP. BY ITS GENERAL MANAGER (PROJECTS CONTRACTS)  
 3.M/S WAPCOS LTD, REP. BY ITS PROJECT ENGINEER, MR. A. ABHIRAT, VSP-AWSR PROJECT, SCTOR-3,

UKKUNAGARAM, VISAKHAPATNAM-530032, ANDHRA PRADESH.

4.THE DIRECTOR OF MINES AND GEOLOGY, VIJAYAWADA, ANDHRA PRADESH.

5.THE ASST DIRECTOR OF MINES AND GEOLOGY, VIJAYAWADA, ANDHRA PRADESH.

6.STATE OF AP, REPRESENTED BY ITS SECRETARY INDUSTRIES AND COMMERCE DEPARTMENT AP SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT

### **...RESPONDENT(S):**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or direction, more particularly one in the nature of Writ Mandamus, declaring that, a) the earth excavated and reused by the Petitioner in the course of execution of the works in respect of Agreement No.VSP/CONT/C-06 OF 2016-17 dated 17/08/2016 is not liable for levy of seigniorage fee. b) the action of the Respondents in withholding/recovering the seigniorage charges from the RA Bills of the Petitioner, as communicated to the Petitioner vide impugned communication dated 03/03/2023 is illegal, arbitrary and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case. and consequently c) direct the Respondent No.2 to release the payments against the RA Bills of the Petitioner without any deduction/s towards the purported seigniorage charges and/or pass

### **IA NO: 1 OF 2023**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No.1 to release payments against the RA Bills of the Petitioner in respect, of the works executed under the Agreement No. VSP/CONT/C-06 OF 2016-17 dated 17/08/2016 without any deduction/s towards the purported seigniorage charges, pending disposal of the Writ Petition and/or pass

### **IA NO: 1 OF 2025**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to grant leave to the Respondent

No.5 in the Writ Petition No.20798 of 2023 to file counter affidavit in the above Writ Petition and pass

**Counsel for the Petitioner:**

1.G V S GANESH

**Counsel for the Respondent(S):**

1.C V R RUDRA PRASAD (CENTRAL GOVT COUNSEL)

2.GP FOR MINES AND GEOLOGY

3.GP FOR INDUSTRIES COMMERCE

4.V SUBRAHMANYAM

**The Court made the following:**

**ORDER:**

1. The present writ petition is filed seeking a writ of mandamus to declare that the action of the respondents herein in withholding/recovering the seigniorage charges of the RA (running account) Bills of the petitioner, vide communication dated 03.03.2023, is illegal and arbitrary.

2. In the present writ petition, the proceedings dated 03.03.2023 has been filed as Annexure P.9, and the said proceedings in the 2<sup>nd</sup> reference refer to the filing of the writ petition in W.P.No.4720 of 2018.

3. This writ petition is filed on 10.08.2023, enclosing a copy of the order passed in W.P.No.4720 of 2018 as Annexure P.6 at page No.38 of the material papers filed in support of the writ petition.

4. It appears from the reading of the aforesaid order, writ petition No.4720 of 2018 filed in respect of the selfsame cause of action has been withdrawn by the writ petitioner on the ground of the cause not being survived.

5. In the light of the aforesaid facts, a question would arise whether the present writ petition filed on 10.08.2023 is maintainable in the eye of law.

6. In the case of **Sarguja Transport Service vs. State Transport Appellate Tribunal, M.P., Gwalior**, reported in 1987 (1) SCC 5, the ratio is explained in para-8 of the judgment rendered by the Hon'ble Apex Court as under:

*“8. The question for our consideration is whether it would or would not advance the cause of justice if the principle underlying Rule 1 of Order XXIII of the Code is adopted in respect of writ petitions filed under Articles 226/227 of the Constitution of India also. It is common knowledge that very often after a writ petition is heard for some time when the petitioner or his counsel finds that the Court is not likely to pass an order admitting the petition, request is made by the petitioner or by his counsel, to permit the petitioner to withdraw from the writ petition without seeking permission to institute a fresh writ petition. A Court which is unwilling to admit the petition would not ordinarily grant liberty to file a fresh petition while it may just agree to permit the withdrawal of the petition. It is plain that when once a writ petition filed in a High Court is withdrawn by the petitioner himself he is precluded from filing an appeal against the order passed in the writ petition because he cannot be considered as a party aggrieved by the order passed by the High Court. He may as stated in **Daryao v. State of U.P.**, [1962] 2 S.C.R. 575 in a case involving the question of enforcement of fundamental rights file a petition before the Supreme Court under Article 32 of the Constitution of India because in such a case*

*there has been no decision on the merits by the High Court. The relevant observation of this Court in Daryao's case (supra) is to be found at page 593 and it is as follows:*

*"If the petition is dismissed as withdrawn it cannot be a bar to a subsequent petition under Art. 32, because in such a case there has been no decision on the merits by the Court. We wish to make it clear that the conclusions thus reached by us are confined only to the point of res judicata which has been argued as a preliminary issue in these writ petitions and no other."*

7. In para-9 of the aforesaid decision, the Hon'ble Apex Court, referring to Daryao's case (supra), has held that the said judgment is of no assistance and the principle underlying Order-XXIII Rule-1 of CPC should be extended in the interests of administration of justice to cases of withdrawal of writ petition also, not on the ground of res judicata, but on the ground of public policy as explained. It would also discourage the litigant from indulging in bench-hunting tactics. In any event, there is no justifiable reason in such a case to permit a petitioner to invoke the extraordinary jurisdiction of the High Court under Article 226 of the Constitution once again. While the withdrawal of a writ petition filed in a High Court without permission to file a fresh writ petition may not bar other remedies like a suit or a petition under Article 32 of the Constitution of India since such withdrawal does not amount to res judicata, the remedy under Article 226 of the

Constitution of India should be deemed to have been abandoned by the petitioner in respect of the cause of action relied on in the writ petition when he withdraws it without such permission. In the instant case, the High Court was right in holding that a fresh writ petition was not maintainable before it in respect of the same subject matter since the earlier writ petition had been withdrawn without permission to file a fresh petition.

8. It is not in dispute that the selfsame subject matter is the subject matter in the earlier writ petition and in the present writ petition, and as long as the said fact is not in dispute, the question of maintainability is the primary issue.

9. The learned counsel for the petitioner has filed a list of citations from 2007 onwards, and all the said decisions relate to the merits of the case, which pertains to whether the levy of seigniorage fees is justified or not.

10. After going through the citations relied on by the petitioner, I am of the view that the proper course of action would be to file a petition to review or recall the earlier order dated 09.11.2022, passed in W.P.No.4720 of 2018.

11. I have also seen the copy of the final completion certificate issued on 20.10.2022, and the same is also said to have been filed in W.P.No.4720 of 2018; hence, the contention regarding the change of cause of action also has no application.

12. In view of the fact that the findings are being rendered in the present writ petition with regard to the maintainability, I refrain myself from going into the merits of the case as canvassed by both the parties except placing on record the stand taken by the 5<sup>th</sup> respondent by way of additional counter which refers to the bill of quantities and one of the items is payment of royalty and, however, I am not touching the merits of the case leaving it to the parties to seek appropriate remedies.

13. With these observations, the Writ Petition is disposed of. No costs.

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

**SMT JUSTICE SUMATHI JAGADAM**

19<sup>th</sup> June, 2026

cbs

Whether the order is:

|            |   |                |   |
|------------|---|----------------|---|
| Speaking   |   | Reasoned       | √ |
| Reportable | √ | Non-Reportable |   |



THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

Writ Petition No.20798 of 2023

19<sup>th</sup> June, 2026

cbs

\*THE HONOURABLE SMT. JUSTICE SUMATHI JAGADAM

+W.P.No.20798 of 2023

% 19.06.2026

Between:

M/s. Larsen and Toubro Limited, a company  
incorporated under the Laws of India, having  
its registered office at L & T House,  
Ballard Estate, Mumbai-400 001.

... Petitioner

AND

The Union of India, repl. By its Secretary,  
Industries and Commerce Department,  
New Delhi and others

... Respondents

<GIST:

>HEAD NOTE:

! Counsel for petitioner : Sri G.V.S. Ganesh

^ Counsel for 1<sup>st</sup> respondent : Sri C.V.R.Rudra Prasad

^ Counsel for 2<sup>nd</sup> respondent : Sri V.Subrahmanyam

^ Counsel for respondent Nos.4&5: The GP for Mines and Geology

^ Counsel for 6<sup>th</sup> respondent : The GP for Industries & Commerce

? CASES REFERRED :

1) 1987 (1) SCC 5

## HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

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... Respondents

DATE OF JUDGMENT PRONOUNCED: 19.06.2026

SUBMITTED FOR APPROVAL:

THE HONOURABLE SMT. JUSTICE SUMATHI JAGADAM

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|----------------------------------------------------------------------------------|--------|
| 1. Whether Reporters of Local newspapers<br>may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be<br>marked to Law Reporters/Journals?    | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to<br>see the fair copy of the Judgment? | Yes/No |

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 SUMATHI JAGADAM, J