

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION NO.39272 OF 2013

ORDER:

1. Heard Sri V.Ravichandran, learned counsel for the petitioner and Government Pleader for Forests for the respondents.
2. Petitioner assails the order dt. 16.12.2013 of the fourth respondent rejecting petitioner's request for transfer of ownership of the saw mill owned by her.
3. Petitioner's case is that she is the proprietor of M/s. Sri Srinivasa Wood Works located in Door No.76-13-92/11/3, Gollapudi, Vidyadharapuram, Vijayawada and that in this premises, a saw mill is being run under a valid license issued by fourth respondent, the competent authority. Petitioner submitted a representation dated 17.07.2013 to the fourth respondent requesting transfer of ownership in favour of Sri A.V.R.Mohan Rao, who is the son of her elder sister since she was not in a position to effectively supervise the operation of the saw mill.
4. Her request was rejected by the fourth respondent by the impugned order dt.16.12.2013 stating that as per Rule 5(2) of the A.P. Saw Mill Rules, license for saw mills located within five kilometers of forest boundary, is not transferable.
5. Counsel for the petitioner relies on G.O.Ms.No.91 Energy, Forests, Science and Technology (For.III) Department dated 11.07.2006 issued by the first respondent after the judgment of the Supreme Court dated 30.10.2002 in W.P.No.20295 in case between *Sri T.N. Godavarman Thirumulpad v. Union of India and others*.
6. In the said judgment, the Supreme Court directed to close down all unlicensed units established after 30.10.2002 forthwith and imposed moratorium that no State Government or Union Territory will permit the opening of any new saw mills, Veneer or Plywood Industry, without prior permission of Central Empowered Committee (CEC)

(Constituted by the Supreme Court of India).

7. Subsequently, the matter relating to regularization of Wood Based Industries in Andhra Pradesh was discussed in a meeting held by the CEC on 26.05.2006 with the State Forest Department Officials. A three member committee was constituted to examine various issues relating to Wood Based Industries and authorized the said Committee to take a final decision regarding the cases involving the transfer of ownership of the Wood Based Industries and/or their locations. Pursuant to the same, the said GO was issued and it provided for transfer of ownership by way of sale, inheritance, division of property, family arrangement, and dissolution of partnership or by lease of saw mill, with the approval of the licensing authority.

8. Counsel for the petitioner contends that the impugned order has been passed without reference to G.O.Ms.No.91 dated 11.07.2006 wherein the Government itself has permitted transfer of ownership by way of sale of saw mills subject to approval of licensing authority.

9. Counsel for the petitioner also relied on order dated 25.06.2012 in W.P.No.13088 of 2012 wherein this Court had issued directions permitting transfer of ownership and also shifting of location of saw mill which were both complied with by the fourth respondent by proceedings dt. 13.07.2012.

10. In the counter affidavit filed by the respondents, a reference is made both to G.O.Ms.No.91 as well as Rule 5(2) of the A.P. Sawmill (Regulations) Rules, 1969 (Rules) and it is sought to be contended that the G.O. contains only a general provision for transfer of ownership while the rule contains a specific provision prohibiting transfer of ownership within five kilometers from the reserve forest. Surprisingly it is also stated in the counter that there is no connection between the Rules and the G.O.

11. Learned Government Pleader states that Rule 5(2) of the Rules prohibits transfer of saw mill license located within five kilometers of forest boundary but G.O.Ms.No.91 dt. 11.07.2006 permits the same

without any restrictions.

12. Having considered both Rule 5(2) of the Rules as well as G.O.Ms.No.91 dated 11.07.2006, I am of the opinion that the State Government is not oblivious of Rule 5 of the above Regulations when it issued G.O.Ms.No.91 dated 11.07.2006 wherein it has not restricted the transfer of ownership by way of sale of saw mill with the approval of the licensing authority in any manner. Also the G.O. was issued after clearance from the Central Empowered Committee constituted as per the judgment dated 30.10.2002 in W.P.No.20295 referred to above.

13. In view of the same, I am of the opinion that the fourth respondent was not correct in refusing to permit transfer of ownership in view of the specific provision permitting such a transfer in G.O.Ms.No.91 dated 11.07.2006.

14. Therefore, the impugned order is set aside and the Writ Petition is allowed and a direction is given to the fourth respondent to affect transfer of ownership of M/s. Sri Srinivasa Wood Works located in Door No.76-13-92/11/3, Gollapudi, Vidyadharapuram, Vijayawada, in favour of Sri A.V.R.Mohan Rao as sought for by the petitioner within four (4) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(M.S.RAMACHANDRA RAO, J)

19th November 2015

RRB