

THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

FRIDAY THIS THE SEVENTEENTH DAY OF JULY
TWO THOUSAND AND FIFTEEN

PRESENT

**THE HON'BLE MR JUSTICE A.RAMALINGESWARA
RAO**

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WRIT PETITION No.11672 of 2013

Between:

M/s.SRG Minerals and Metals,
Visakhapatnam, rep.by its
Proprietor Naval Kishore Khaitan

.....
PETITIONER

AND

Andhra Pradesh Industrial Infrastructure
Corporation Limited, Visakhapatnam
Rep.by its Zonal Manager and 2 others

.....RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: **17.07.2015**

SUBMITTED FOR APPROVAL:

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**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA
RAO**

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

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA
RAO**

WRIT PETITION No.11672 of 2013

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ORDER:

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Heard the learned counsel for the petitioner, learned standing counsel for Respondents 1 & 2 and the learned counsel for the 3rd respondent.

2. The petitioner is proprietary concern and is engaged in the business of manufacture and trade of metals and minerals. They requested respondents 1 and 2 for allotment of a piece of land in the Industrial Park at Autonagar, Gajuwaka, Visakhapatnam for establishment of an industry, vide their application dated 03.11.2009. The respondents 1 and 2 allotted a piece of land provisionally on 02.03.2010 and finally letter of allotment was issued on 19.05.2010, allotting plot No.49, admeasuring 3063.19 square meters, as per site plan at Block-F, Industrial Park, Visakhapatnam-12 after receiving the total amount of Rs.76,57,975/- @Rs.2,500/- per square meter towards land cost and earnest money deposit. An agreement of sale was executed in favour of the petitioner on 19.05.2010. A possession

certificate was also given to the petitioner on 20.05.2010. The said land is covered by 100 feet road on eastern and northern side. At the time of handing over of possession, the land was covered by bushes and waterlogged. The 100 feet road, which is stated to have been existed as per the sketch enclosed to the sale agreement, does not exist. After filling and levelling the said land, the petitioner tried to construct a compound wall and some people objected to the same. A complaint was lodged before the District Collector and Tahsildar, Gajuwaka to conduct a joint survey. After conducting survey, the petitioner constructed a compound wall in the schedule property. While so, on 03.04.2013 the 2nd respondent issued a show cause notice to the petitioner stating that the petitioner constructed a compound wall on the eastern side to a length of 7.59 meters on South-East corner in plot No.50 and 175.2 meters on North-East corner on 100 feet wide master plan road. Though the petitioner was allotted an extent of 3063.19 square meters, the land in possession of the petitioner is 3404.00 square meters. The petitioner was asked to remove encroachment within 7 days. The petitioner submits that they never encroached any part of the land and the compound wall was constructed under the supervision of the officers of respondents 1 and 2 only. As action was being initiated pursuant to the notice dated 03.04.2013, the present writ petition was filed.

3. The respondents 1 and 2 filed counter affidavit admitting the allotment of 3063.19 square meters to the petitioner, but stating that the petitioner occupied more extent than that was allotted. There was no discrepancy of any nature in the allotment of plot. The plot on ground was measured accurately and boundaries were fixed before handing over the physical possession. When the schedule annexed to the agreement of sale showed that the plot No.49 was bounded by 100 feet wide roads on northern as well as eastern side, the petitioner encroached over the land pertaining to the proposed roads by

constructing a compound wall. The petitioner also encroached upon the adjacent plot No.50.

4. The neighbouring plot owner of plot No.50 also filed a counter affidavit stating that the entire area was got surveyed by the Surveyor of the 2nd respondent and plot Nos.50 & 51 clearly was demarcated in the sketch supplied by the 2nd respondent. It shows that the writ petitioner was in possession of excess of an extent of 330.25 square meters over and above the allotted land in plot No.49.

5. This Court by order dated 17.04.2013 while admitting the writ petition, directed *status quo* shall be maintained with regard to the compound wall constructed by the petitioner in plot No.49.

6. Now from the above facts, it is clear that the petitioner was allotted an extent of 3063.19 square meters, whereas the petitioner is in occupation of more extent than that was allotted and constructed a compound wall. Though the petitioner expressed his willingness to pay for the excess land, in view of the allotment of land in favour of the 3rd respondent in plot No.50 and occupying a portion of the said land, the said request of the petitioner cannot be considered by the respondents 1 and 2. Though the petitioner might have constructed a compound wall, the construction of compound wall should be within the area allotted to the petitioner only. In the circumstances, the notice issued by the 2nd respondent on 03.04.2013 asking the petitioner to remove the encroachment on South-East corner and North-East corner cannot be said to be illegal.

7. In view of the above, the Writ Petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

A.RAMALINGESWARA RAO,J

Date: 17.07.2015
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