

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT

WRIT APEAL No. 338 OF 2015

16-06-2015

Between:

M/s. Legend Minerals, rep., by its Prop. Sri J. Pradeep Reddy, S/o.
Subba Reddy, Occ: Business, R/o # 10-3-311/7/A, Caste Hills, Road
No.3, Near NMDC, Masab Tank, Hyderabad, Telangana
... Appellant

And

Sri N. Jagga Reddy and three others
... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

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WRIT APEAL No. 338 OF 2015

PC: (per the Hon'ble Sri Justice S.V. Bhatt)

Heard Smt. N. Shoba, learned counsel for the appellant;
Sri D. Venkat Reddy, learned counsel for respondent No.1 and the
learned Government Pleader for Mines and Geology for respondent
Nos.2 to 4.

In the writ appeal fact in-issue under the Andhra Pradesh Minor
Mineral Concession Rules, 1966 (for short 'the Rules') arises for
consideration. The parties are referred to as arrayed in the writ
petition. The circumstances relevant for the disposal of the appeal are
as follows:

The 4th respondent in Writ Petition No.25015 of 2010, on
14-02-2007 applied for quarry lease in an extent of four hectares in
Sy.No.180 of Mannempalli Village, Thimmapur Mandal, Karimnagar
District. On 12-06-2007, the 4th respondent received show cause
notice as part of enquiry or for consideration of quarry lease
application dated 14-02-2007. The objection against consideration of
the application dated 14-02-2007 for grant of quarry lease is that the
area applied through the instant application is overlapping with the
mining lease granted to an earlier applicant. It is a matter of record
and also admitted by the learned counsel for the parties that the 2nd
respondent – the Director of Mines and Geology through order dated
31-07-2009 rejected the application dated 14-02-2007 of 4th

respondent. The 4th respondent filed a revision under Rule 35-A of the Rules. The 1st respondent has taken the revision on file in Case No.18305/M.II(1)/2009-4. Through order dated 27-08-2010, the 1st respondent held as follows:

“Aggrieved by the rejection orders issued by the Director of Mines & Geology, Hyderabad M/s. Legend Minerals, filed revision before the Government. The petitioner has submitted that the Director of Mines & Geology, Hyderabad has revoked the grant orders of Sri D. Kumara Swamy and the area available is free and without considering his application, the Director of Mines & Geology, Hyderabad simply rejected the petitioners application on the grounds of non-attending the survey and inspection. The petitioner company further stated that it is totally unjust and intentionally his application was rejected even though his reply was received on the show cause notice issued by the Director of Mines & Geology. The petitioner has requested the Hon’ble Revisional Authority to consider their application for grant of quarry lease.

In order to dispose off the case a personal hearing was conducted in this case on 07-04-2010 and the Revisional Authority reviewed the case. The Revision Authority after taking the material made available into consideration in general, and the grounds of the petitioner as stated above in specific, hereby permit the petitioner for another opportunity for inspection, survey and demarcation within period of 60 days from the date of issue of these orders. Accordingly, the Revision petition is disposed off under Rule 35-A of APMML Rules, 1966 duly setting aside orders in the Director of Mines & Geology Proceedings No.7415/R6-3/2007, dt. 31-07-2009.”

Assailing order dated 27-08-2010, one Jagga Reddy, who is subsequent applicant for grant of mining lease in respect of a portion of the land covered by quarry lease application dated

14-02-2007 filed Writ Petition No. 25015 of 2010. Through the impugned order, the learned single Judge has allowed the writ petition with the following reasons:

“This Court, in a recent order in W.P.No.4169 of 2008 dated 29.10.2014, while considering Rules 35-A and 35-C of the Rules, held that consideration of the revision application without any application seeking condonation of

delay by showing sufficient cause is not maintainable. In the instant case also, the fourth respondent did not indicate any reason for the delay in filing the revision. On the other hand, the fourth respondent pressed into service a letter which is allegedly to have been sent on 25.09.2009 to the second respondent, which in fact was not received by the second respondent. In any event, such a communication should have been addressed to the first respondent, the revisional authority.

For the reasons stated above, the Writ Petition is, accordingly, allowed setting aside the Memo No.18305/M.II(1)/2009-4, dated 27.08.2010. No costs. Miscellaneous Petitions pending. if any in this Writ Petition, shall stand closed.”

We have heard learned counsel appearing for the parties and perused the material available on record.

The learned counsel appearing for the parties have tried to persuade us to consider the issue on merits and decide whether the order impugned in the writ petition is tenable or for that matter any exception can be taken to the order of the revisional authority,.

The order impugned in the appeal has once and for all foreclosed the available remedies to 4th respondent, for if any defect is noticed in the presentation/filing of revision, the setting aside order in its entirety is unsustainable. If any objection is raised at the right forum, the forum will decide whether the defect is curable or not and now the revisional authority intends to dispose of the revision. Therefore, in our considered view, the following order would satisfy the requirements of fairness in disposal and affords opportunity to all the parties before 1st respondent/revisional authority.

“Having regard to the limited ground on which the order dated 27-08-2010 is interfered with and set aside by the learned single Judge, with which we are not in agreement, we are inclined to set aside the order dated 11-11-2014 passed in Writ Petition No. 25015 of 2010 and restore the revision pending in Case No.18305/M-

11(1)/2009-4 to the file of the 1st respondent and direct the 1st respondent to hear the matter on merits and dispose of the revision in accordance with law. It is made clear that for restoring the revision to file, it shall not be treated that this Court has expressed any view on the merits of the matter or on the contentions of the writ petitioner or 1st respondent. All the contentions and the objections are kept open for consideration by the 1st respondent.”

The writ appeal is accordingly allowed and matter remanded to 1st respondent for fresh disposal of Revision in Case No. 18305/M-11(1)/2009-4.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

16-06-2015
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