

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.20131 OF 2012

DATED: 23-7-2015

Between:

M. Kareem Baig

... Petitioner

And

The Divisional Forest Officer

Kurnool Division

Kurnool District

... Respondent

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Sarath Chandra,

for Mr. P. Nagendra Reddy

COUNSEL FOR THE RESPONDENT: A.G.P. for Forests (AP)

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to set aside proceedings in Rc.No.3957/2009-H3, dt.9.1.2012, of the respondent.

The petitioner is running a saw-mill at Giddalur Village in Prakasam District. He has specifically pleaded that his saw-mill was situated within 2.00 kms. distance from the reserve forest boundary. Later, the petitioner has shifted the saw-mill to a place in Sy. No.185 of Banaganapalli Village, Kurnool District, after obtaining permission

from the respondent. But, before shifting the saw-mill, the respondent and his subordinate officials have inspected the premises and found that the same is situated within a distance of 6.00 kms. from the reserve forest boundary and recommended for shifting the saw-mill to a different place in Sy. No.185. The petitioner has accordingly established his saw-mill at that place. However, by the impugned proceedings the respondent held that as per the GPS readings the saw-mill is within the 5 kms., from the nearest reserve forest boundary, i.e., G.A.Bad south block, and running the saw-mill at that place is contrary to G.O. Ms. No.91, Environment, Forests, Science & Technology (For.III), Department, dt.11.7.2006.

The respondent has filed a counter affidavit wherein he has not disputed the fact that the petitioner was running the saw-mill within 5.00 kms., from the periphery of the reserve forest boundary even before he has shifted the same from Giddalur to Banaganapalli. He has further stated that G.O. Ms. No.91, dt.11.7.2006, prohibits shifting of saw-mill to a place within 5 kms. radius from the reserve forest.

This Court, in *M/s. Sri Srinivasa Wood Works v. Government of Andhra Pradesh* (W.P. No.1294 of 2011, dt.11.2.2011), has dealt with an identical issue and while allowing the writ petition, it held as under:

*In my opinion, the ground of rejection for shifting, purportedly on the prohibition contained in G.O.Ms.No.91, Environment, Forests, Science & Technology (For.III) Department, dated 11-7-2006, on the facts of the present case, is wholly unsustainable. As noted above, the said G.O. prohibits shifting of a saw mill from outside of 5 K.Ms. radius to within the said radius of forest area. This necessarily means that if a saw mill is already located within 5 K.Ms. radius of the forest area, there is no prohibition on its shifting to some other location within the same radius. On the own showing of respondent No.4, the petitioner's saw mill is situated within 5 K.Ms. radius of Indrakeeladri protected forest and the petitioner is seeking to shift his saw mill to another place within the same radius on the ground that shifting has become inevitable in view of road widening. I am therefore of the opinion that the prohibition contained in G.O.Ms.No.91, dated 11-7-2006, on the basis of which the impugned rejection is made has no application to the petitioner's case. Accordingly, the impugned order is set-aside. Respondent No.4 is directed to permit the petitioner to shift the saw mill to the proposed place within a period of one month from the date of receipt of this order.*

As the facts in the present case are identical to that decided in the said writ petition, this writ petition also deserves to be allowed.

Accordingly, the impugned order is set aside and the writ petition is allowed.

As a sequel to disposal of the writ petition, W.P.M.P. No.25797 of 2012 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

23-7-2015

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