

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.17646 of 2014

ORDER:

Heard the learned counsel for the petitioner, learned Standing Counsel for the respondents 2 and 3, and learned counsel for the fourth respondent.

The petitioner is a public limited company. It submitted an application to the second respondent on 03.03.2008 for allotment of land to an extent of 500-600 acres for establishment of Thermal Power Plant & Ferro Alloys Complex at APIIC Industrial Park, Kantakapalli, Vizianagaram District. However, the second respondent allotted only Ac.327.46 cents of land by letter dated 02.09.2008. Subsequently, the petitioner was asked to surrender Ac.46.50 cents from out of the said land for accommodating another industry. The petitioner complied with the said request and surrendered Ac.46.50 cents. Accordingly, the allotment in favour of the petitioner was revised on 14.11.2008 restricting it to an extent of Ac.280.96 cents of land in Survey No.179/4, 181 to 203 of Kantakapalli Village, Kothavalasa Mandal, Vizianagaram District. Though the second respondent promised the infrastructural support, the promise was not fulfilled. Out of the total extent of Ac.280.96 cents of land, 90 acres of land is hillock only. The petitioner submitted a letter on 02.01.2012 requesting the second respondent to allot Ac.46.50 cents, which was lying vacant, for the expansion plans of the petitioner. The petitioner also submitted an application on 21.12.2013, along with Demand Draft for an amount of Rs.33,10,973/-, for seeking allotment of 30 acres of land, which was surrendered by the petitioner earlier, as the same was required for expansion of the project in Phase-II and Phase-III. However, the second respondent decided to trifurcate 30 acres of land into three divisions and offered the petitioner only Ac.19.04 cents of

land. The said land offered by the second respondent is covered to the extent 80% by hillock. The petitioner submitted a representation on 06.05.2014 to the second respondent stating that the trifurcation of land surrendered by the petitioner was unfair and requested to consider the representations. Since the said representations were not disposed of, the present writ petition was filed.

A counter affidavit is filed on behalf of the respondents 2 and 3 stating that the letter dated 03.03.2008 of the petitioner is a letter requesting for allotment of land and only a letter of offer was issued by the second respondent for allotment of Ac.327.46 cents on 02.09.2008, which was not even a provisional allotment. Based on the same, the petitioner submitted a letter on 28.07.2008 requesting to handover the possession of the land for protecting the land. The second respondent issued a letter on 28.07.2008 according permission to start construction of boundary wall to protect the tentative extent of land prior to payment of land cost or execution of agreement of sale. The allegation that the company was asked to surrender Ac.46.50 cents from out of the said land for accommodating another industry was denied. After examining the project report, the second respondent issued a provisional allotment letter on 14.11.2008 modifying the orders dated 02.12.2008 and 14.05.2009 for an extent of Ac.280.96 cents. The second respondent never issued provisional allotment order for Ac.327.80 cents, but handed over possession only after payment of land cost and entering into an agreement of sale. The petitioner accepted the allotment of land for an extent of Ac.280.90 cents, paid the land cost, executed the sale agreement and sale deed and after five years the petitioner cannot claim any further extent of land. The petitioner submitted letters on 02.01.2012, 25.05.2013 and 19.06.2013 requesting the second respondent to allot the land admeasuring Ac.46.50 cents for its expansion plans. It requested allotment of 30 acres vide letter dated

07.12.2013 and filed online application on 19.12.2013 with a demand draft for Rs.33,10,973/- for the said allotment. Mere filing of application for allotment of land by the entrepreneurs does not confer any status or right on the entrepreneurs. The land was allotted to the petitioner vide provisional allotment order dated 14.05.2009 @ Rs.5 lakhs per acre for an extent of Ac.242.58 cents and @ Rs.3 lakhs per acre for Ac.38.98 cents. The Company raised objections and those objections were examined and it was permitted to implement the project within five years, though the normal time is only two years. The sale agreement was executed on 20.01.2010 and the possession was handed over on 20.01.2010. The company never raised any issue with regard to non-allotment of entire extent of Ac.327.30 cents. The present writ petition is filed after five years of allotment. The second respondent allotted an extent of 10 acres in favour of the fourth respondent, who is a SC entrepreneur. Though the petitioner was allotted an extent of Ac.19.04 cents by allotment order dated 04.06.2014 for establishment of fabricated structural steel company, the petitioner did not pay the cost of land, but filed the present writ petition.

The writ petition was filed challenging the action of the second respondent in not considering the representations of the petitioner dated 10.03.2014, 15.03.2014, 04.04.2014 and 06.05.2014 on trifurcation of 30 acres of land. When the petitioner was asked to show the right for consideration of those representations, the learned counsel for petitioner was unable to show any right, but advanced the arguments stating that the petitioner was initially allotted Ac.327.46 cents of land, but the sale deed was executed only for Ac.280.96 cents. The averment in the counter affidavit is that the total extent of Ac.327.46 cents was never allotted to the petitioner, though it filed an application for allotment of the said land. The second respondent issued a comfort letter on 07.05.2008 offering the said land. The petitioner was allotted Ac.280.90 cents after

examining the project report and the petitioner accepted the same. In view of the same, the petitioner cannot have any right to demand consideration of the representations for allotment of 30 acres of land in its favour.

The learned Standing Counsel for the respondents 2 and 3 relied on a judgment in **Gujarat Ambuja Cement Ltd., Junagadh District, Gujarat v. A.P. Industrial Infrastructure Corporation Ltd., Hyderabad**^[1] rendered by me wherein it was held that even if there is a letter of allotment, it is only an offer and the letter of allotment would not fructify in a binding agreement unless the conditions of the allotment are complied with. It was also stated that an offer can be withdrawn before it is accepted.

In the instant case, there is no offer for allotment of any land beyond the land that was allotted to the petitioner. In view of the same, the relief sought for by the petitioner for consideration of the representations is without basis and no *mandamus* can be issued for their consideration.

Hence, the writ petition fails and is accordingly dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 22.09.2015

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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