

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.360 of 2015

ORDER:

This writ petition is filed assailing the proceedings dated 28.11.2014 issued by the Vice-Chairman, Vijayawada, Guntur, Tenali, Mangalagiri Urban Development Authority, Guntur (VGTMUDA), whereby the petitioner was refused a No Objection Certificate (NOC) for quarry of road metal though a quarry lease was granted by the mining authorities, respondent Nos.3 and 4, under proceedings dated 12.07.2007.

By the impugned proceedings, the VGTMUDA informed the mining authorities that the subject NOC was refused as the learned Principal District Munsif, Sattenapalli, had rendered judgment and decree dated 23.02.1994 in O.S.No.104 of 1988 injunctioning the authorities from granting any quarry lease within a distance of 300 metres from the premises of Sri Gurukula Vidyalayam Residential High School, Perecherla. Opining that the petitioner's quarry lease site was located within the said distance, the VGTMUDA requested the mining authorities to cancel the quarry lease granted to the petitioner and also requested them not to send any such proposal if the quarry lease site was within a distance of 300 metres from the school.

The Zonal Joint Director, Development Control in Andhra Pradesh Capital Region Development Authority, Vijayawada, filed a counter-affidavit on behalf of the VGTMUDA stating that earlier, a NOC had been issued to the petitioner but upon coming to know of the judgment and decree dated 23.02.1994 passed in O.S.No.104 of 1988 on the file of the learned Principal District Munsif, Sattenapalli, the same was cancelled. The counter-affidavit is however silent as regards the assertion made by the petitioner in para 8 of the writ affidavit that its leased area was at a distance of 500 metres from the school.

As the learned Principal District Munsif, Sattenapalli, had granted a permanent injunction by way of the judgment and decree dated 23.02.1994 in

O.S.No.104 of 1988 to the effect that no lease should be granted for conducting quarrying works within a distance of 300 metres from the edge of the premises of Sri Gurukula Vidyalayam Residential High School, Perecherla, the actual location of the petitioner's quarry lease site becomes crucial.

As the said aspect has not been determined by the respondent authorities and as the petitioner's specific assertion is that its quarry lease site is beyond the stipulated distance of 300 metres, the writ petition is disposed of setting aside the impugned proceedings dated 28.11.2014 issued by the VGTMUDA and directing the respondent authorities to undertake a joint inspection, after due notice to the petitioner, so as to verify the actual distance between the petitioner's quarry lease site and the boundary of the premises of Sri Gurukula Vidyalayam Residential High School, Perecherla. In the event the distance is found to be beyond 300 metres, the judgment and decree dated 23.02.1994 passed by the learned Principal District Munsif, Sattenapalli, in O.S.No.104 of 1988, would have no application and it would be for the respondent authorities to consider the petitioner's application in accordance with law.

In the event the petitioner is aggrieved by the result of such consideration, it shall be open to it to question the same by way of independent proceedings in accordance with law. It shall also be open to the petitioner to seek recourse to legal remedies as per law if it is aggrieved by the judgment and decree dated 23.02.1994 passed by the learned Principal District Munsif, Sattenapalli, in O.S.No.104 of 1988.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Date:01.10.2015

GJ

