

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.Nos.21883 and 26270 of 2015

COMMON ORDER :

Since these two Writ Petitions arise between the same parties, they are being disposed of by this common order.

2. The petitioner in both these Writ Petitions had purchased a Saw Mill from one Sankara Reddy for valuable consideration which is located at Rajahmundry.

3. Permission for the said sale was granted by 2nd respondent vide proceedings dt.01.04.2015.

4. Thereafter, the petitioner intended to shift this Saw Mill from Rajahmundry to her native place at Kavalapadu Village, Tuni Mandal, East Godavari District.

5. The petitioner submitted an application dt.04.04.2015 to 2nd respondent seeking permission to change the location from Rajahmundry to her native place mentioned above along with necessary documents and requisite fee. The 2nd respondent directed 3rd respondent to submit a report with specific recommendations, but there was no response thereafter from 2nd respondent.

6. The petitioner therefore filed WP.No.21883 of 2015 questioning the inaction of respondents in permitting

her to shift her Saw Mill from Rajahmundry to her native place. After the said Writ Petition was filed, an order dt.10.07.2015 was passed by 2nd respondent in Rc.No.5416/1999-P2 stating that the Saw Mill of petitioner falls within five kilometers distance from Payakaraopeta 'A' Block F.R., and that there is a bar contained in Rule 3 (2) of the Andhra Pradesh Saw Mill (Regulations) Rules, 1969 (for short, 'the Rules'), for such transfer.

7. Challenging the same, the present Writ Petitions are filed.

8. The learned Government Pleader for Forests states that the order passed by 2nd respondent is correct and does not warrant any interference by this Court under Article 226 of the Constitution of India.

9. Sub-rule (2) of Rule 3 of the above Rules states :

“(2) No licence for setting up fresh saw mills within a distance of 5 Kms. from the boundary of any Forest under the control of the Forest Department whether notified or not shall be granted, except when it is required for Departmental use.”

10. Sub-Rule (4) of Rule 5 of the said Rules state :

“(4) In case the saw mill premises is to be changed, or when the machinery is to be shifted from one place to another within the same forest division, such changes should not be done without prior approval of licensing authority.”

11. The above two provisions were considered by a

Division Bench of this Court in **Divisional Forest Officer, Kaghaznagar and another v. Sree Venkateswara Saw Mills, Kaghaznagar**^[1]. The Division Bench held that Sub-rule (2) of Rule 3 would apply only for fresh Saw Mills and not to existing Saw Mills. It observed at para.4 as follows :

“Undoubtedly, an existing saw mill could be shifted to another location within the same forest division but only after prior approval of the licensing authority – in the instance case, the Divisional Forest Officer, under Rule 5(4) of the Rules. The bar contained in sub-rule (2) of Rule 3 applies only for setting up fresh saw mills. If the argument of the learned Government Pleader for Forests is accepted that the bar contained in sub-rule (2) of Rule 3 would also apply to the shifting of the existing saw mills, then, we are of the considered opinion that the word “fresh” occurring in sub-rule (2) of Rule 3 of the Rules would be rendered redundant and surplusage. It is well settled principle of construction of statute that no such interpretation can be placed to render any word or expression used in a Statute waste or surplusage. The rule making authority, in its wisdom, with clear intendment has specified that the bar contained in Rule 3(2) is applicable only to the setting up of ‘fresh’ saw mills and, therefore, that bar cannot be applied to the shifting of the existing saw mills.”

12. In view of the above decision of the Division Bench, it is clear that 2nd respondent was not correct in applying Rule 3(2) of the above regulations to the case of petitioner, since admittedly the petitioner is seeking shifting of existing Saw Mill and not for setting up of a fresh Saw Mill. Therefore, the order passed by 2nd respondent cannot be sustained, and it is accordingly set

aside.

13. The Writ Petitions are allowed, directing the 2nd respondent to permit the petitioner to shift the machinery and equipment of M/s.Vijaya Lakshmi Saw Mill vide License No.189/98 from Rajahmundry to Kavalapadu Village of S. Annavaram Gram Panchayat, Tuni Mandal, East Godavari District, and to run the saw mill business under the name and style of M/s.Veera Durga Saw Mills. No order as to costs.

14. As a sequel, miscellaneous petitions pending, if any, in these Writ Petitions shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 27.11.2015
Ndr/*

[\[1\]](#) 2002 (5) ALT 286 (D.B.)