

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

—
WRIT PETITION No.2733 of 2011

ORDER:

Heard the learned counsel for petitioner, the learned Government Pleader for Mines and Geology for respondent No.2, the learned Government Pleader for Revenue for respondents 3 and 4 and the learned counsel for respondent No.5.

2. The petitioner is owner of lands of an extent of Acs.4.57 cents in Sy.Nos.83/A2, 83/B, 83/D, 84/1, 84/2, 84/3 and 84/4, situated at Chinna Malkapuram Village, Dhona Mandal, Kurnool District. While so, the husband of the fifth respondent applied for grant of mining lease for limestone in the lands of the petitioner and others also. The petitioner gave consent to all survey numbers, except Sy.Nos.84/1 and 84/3 in favour of the husband of the fifth respondent. After giving consent, the Government issued G.O.Ms.No.207, Industries and Commerce (M.III) Department, dated 25.06.1999, granting mining lease in favour of the husband of the fifth respondent. Thereafter, the husband of the fifth respondent expired and the mining lease was transferred in favour of the fifth respondent on 17.07.2002. When the fifth respondent was laying roads in the lands in Sy.Nos.84/1 and 84/3, the petitioner got issued a legal notice on 15.05.2005 to the mining officials seeking cancellation of the mining lease in respect of lands in Sy.Nos.84/1 and 84/3. After receipt of notice, the fourth respondent issued a notice to the fifth respondent to attend for an enquiry, but the fifth respondent did not attend the enquiry. The petitioner again submitted another representation on 20.06.2005, and when no action was taken, he filed W.P.No.15375 of 2005. This Court, by orders dated 15.07.2005 in WPMP.No.19527 of 2005 in WP.No.15375 of 2005, directed the official respondents to consider the representation of the petitioner dated 20.06.2005 within a period of four weeks. Thereafter, the third respondent called for a report from the fourth respondent on 05.09.2005. The fourth respondent submitted a report on 20.09.2005 stating that the lands of the petitioner

are patta lands and he did not give consent in favour of the husband of the fifth respondent and he recommended for cancellation of lease in respect of lands in Sy.Nos.84/1 and 84/3. Accordingly, the third respondent, by proceedings dated 27.10.2005, informed the Director of Mines and Geology stating that the lessee (husband of the fifth respondent) did not obtain the consent of the petitioner in respect of lands in Sy.Nos.84/1 and 84/3. The third respondent requested for deletion of Sy.Nos.84/1 and 84/3 in an extent of Acs.0.64 cents and Ac.0-96 cents respectively from the leased area. The petitioner also filed a representation to the second respondent to take action pursuant to the report of the third respondent dated 27.10.2005. The second respondent passed orders in Memo No.13851/M-I(1)/2005-2, dated 31.05.2006, dismissing the representation. Challenging the same, the petitioner filed a revision before the first respondent. Though a stay was granted on 03.08.2007 directing the fifth respondent not to undertake mining operations in the lands in Sy.Nos.84/1 and 84/3, ultimately the revision itself was dismissed, by proceedings of the first respondent dated 20.10.2010. Challenging the order of the second respondent dated 31.05.2006 and the order of the first respondent dated 20.10.2010 dismissing the revision, the present writ petition is filed.

3. The learned counsel for the petitioner submits that though consent was given by the petitioner in respect of lands, except lands in Sy.Nos.84/1 and 84/3, after expiry of the original lessee, the lease was transferred in favour of the fifth respondent covering the lands in Sy.Nos.84/1 and 84/3 also.

4. In the light of the said contention, this Court verified whether the original lease granted in favour of the husband of the fifth respondent covered the said extents also and noticed that G.O.Ms.No.207, dated 25.06.1999, was issued to the husband of the fifth respondent granting mining lease for limestone and dolomite for a period of 20 years in an extent of Ac.11-15 cents in Sy.Nos.82/1 to 82/8, 83/A1 and A2, 83/B, 83/C1 to 83/C3, 83/D and 84/1 to 84/4 of Malkapuram Village, Dhone

Mandal, Kurnool District. It includes the lands in Sy.Nos.84/1 and 84/3 also. The petitioner did not raise any objection for grant of such lease and raised the objection for the first time only after expiry of the husband of the fifth respondent and transferred the lease in favour of the fifth respondent. The objection relates to the land of an extent of Ac.0.64 cents and Ac.0.96 cents in Sy.Nos.84/1 and 84/3. The transfer in favour of the fifth respondent was effected on 17.07.2002. Thus, the petitioner kept quiet nearly for a period of three years. Thereafter also, he submitted a representation only in the month of May, 2005. The second respondent disposed of the representation of the petitioner on 31.05.2006 stating as follows:

“6. In the above circumstances, the Government have decided to hear the both parties for giving a fair opportunity before taking any action and telegrams were issued to Sri D.Krishna Reddy and Smt.D.Leelavathi with a request to attend the hearing before the Hon'ble Minister for Mines & Geology on 18-02-2006 vide reference 6th cited and accordingly heard both the parties on 18-2-2006. During the hearing, it is observed that Sri D.Shiva Shankar Reddy was granted a mining lease in certain Survey Nos. in G.O.Ms.No.207, dated 25-6-1999. After the death of Shri D.Shiva Shankar Reddy, Smt.D.Leelavathi, wife of D.Shiva Shankar Reddy has been declared as legal heir to the said leasehold. Shri D.Krishna Reddy is claiming that he is the owner of Survey Nos.84/1 and 84/3 measuring 64.64 acres and 0.94 acres and he has not given any consent for the grant of Mining Lease and therefore requested for deletion of an extent of 1.60 acres out of the lease granted to Smt.D.Leelavathi. Smt.D.Leelavathi represented that Shri D.Krishna Reddy has himself informed the Assistant Director of Mines & Geology by a letter that he has given consent for the grant of Mining Lease in favour of Sri D.Shiva Shankar Reddy, husband of Smt.D.Leelavathi. Once the consent is given and the lease granted under the provisions of M.C. Rules, 1960, there is no need to obtain the consent again. Therefore his claim to delete the area from Mining Lease cannot be accepted at this length of time as Sri D.Krishna Reddy is fully aware of Mining Lease granted in favour of Sri D.Shiva Shankar Reddy. Therefore the representation of Sri D.Krishna Reddy for deletion of part of the area from Mining Lease area of Smt.D.Leelavathi cannot be considered.”

6. As stated above, challenging the said order, the petitioner preferred a revision to the first respondent and the first respondent rejected the revision mainly on the ground that the petitioner himself informed the Assistant Director, Mines and Geology, by a letter giving consent of the

mining lease in favour of the husband of the fifth respondent, and when once the consent is given, there is no need to obtain a fresh consent at the time of transfer of lease in favour of the legal heir, the fifth respondent.

7. A careful perusal of the revision filed before the first respondent does not indicate any specific ground taken denying the issuance of consent letter to the Assistant Director, Mines and Geology as submitted by the fifth respondent before the first respondent. The first respondent gave enough opportunity to the revision petitioner, who is the petitioner herein, and also to the second respondent. The first respondent came to the conclusion that the husband of the fifth respondent was granted mining lease after obtaining the consent of the petitioner herein and accordingly dismissed the revision. On the question of obtaining consent from the petitioner, respondents 1 and 2 concurrently held that the petitioner gave consent and on the basis of said consent, mining lease was granted in favour of the husband of the fifth respondent in the year 1999.

8. In view of the said concurrent finding of fact recorded by respondents 1 and 2, and in the absence of any material before this Court contrary to the said finding, this Court is not inclined to interfere with the orders passed by them. The writ petition is, accordingly, dismissed. No order as to costs. Miscellaneous petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 01.03.2016

TJMR