

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.7172 of 2010

ORDER:

This Writ Petition filed under Article 226 of the Constitution of India prays for a direction to the Respondents 3, 5 and 7 not to allot the lands in respect of an extent of Ac.51-09 cents in Sy.No.529/B4 of Mulkalapandla village, Saidapuram Mandal, Nellore district to any person or persons for non-mining purpose as ordered in G.O.Ms.No.74, Industries and Commerce (M.I) Department dated 16.2.2002, which is the area covered by the application of the petitioner.

2. Heard the learned counsel for the petitioner and the learned Government Pleaders for Revenue and Mines and Geology appearing for Respondents, apart from perusing the material available before the Court.

3. According to the petitioner, the State Government vide G.O.Ms.No.359, Industries and Commerce (M.I) Department dated 5.9.1994 declared that the lands in Survey Nos.529/A & B, 530 and 531 are available for re-grant under the mining lease. It is further pleaded that on an application made by the petitioner for grant of mining lease in respect of Ac.51-09 cents in Sy.No.529/B4 of Mulkalapandla village, Saidapuram Mandal, Nellore District, survey was conducted on 16.2.2010 and the application was forwarded to the Tahsildar for submitting report of availability and classification. It is submitted by the learned counsel for the petitioner that instead of considering the application for grant of lease as per Mines and Mineral Regulation and Development Act and the Rules made thereunder, the District Collector has proposed the area for grant of assignment pattas under

Indiramma Housing Scheme. In the above background, the present Writ Petition came to be filed.

4. Responding to the rule nisi issued by this Court, a counter affidavit is filed by the Assistant Director of Mines and Geology-6th respondent herein, setting out the particulars as to the pendency of the applications. It is further stated in the said counter affidavit that for grant of lease, a report of the concerned authority is required on the classification and availability. Referring to the counter affidavit, it is submitted by the learned Government Pleader that unless the revenue authority gives necessary certificate, the mining authorities cannot grant lease.

5. A counter affidavit has also been filed by Respondent No.7-Tahsildar, in which it is stated that the land in Sy.No.529/B4 of Mulkalapandla village, Saidapuram Mandal, Nellore District admeasuring Ac.51-09 cents is classified as Government surplus land in village account and the said land is barren, covered with shrub growth. It is further stated in the said counter affidavit that out of total extent, an extent of Ac.30-00 was granted to twenty beneficiaries and the remaining extent of Ac.21-09 cents is covered with black stones and the land is not useful for cultivation. Eventually, in the counter affidavit, it is stated that the remaining extent of Ac.21-09 cents is required for future public purpose.

6. According to G.O.Ms.No.74, Industries and Commerce (M.I) Department dated 16.2.2002, the District Collector cannot issue No Objection Certificates for any purpose other than mining. There is also no dispute with regard to reality that the State Government vide G.O.Ms.No.359, Industries and Commerce (M.I) Department dated 5.9.1994 notified the land in Sy.No.529/B also for re-grant under the mining lease. There is also no

dispute with regard to the fact that the application of the petitioner is still under consideration before the authorities concerned. Once an application is filed by the petitioner and once the land is notified by the State Government under the Rules, the application needs to be processed in accordance with law. In fact, G.O.Ms.No.74 dated 16.2.2002, which took note of the fact that the house site pattas have been granted in certain districts on lands which are having rich mineral wealth. It is further indicated that allotment of mineral rich areas for such general purposes will have an adverse impact on Industrial growth and Government revenues. Since the area is notified for re-grant and as the petitioner herein has applied for mining lease pursuant to the notification, it is incumbent on the part of the respondent authorities to consider the same in accordance with law keeping in view G.O.Ms.No.74 dated 16.2.2002. It is also not in dispute that G.O.Ms.No.74 dated 16.2.2002 is not superceded by further instructions. As long as the said instructions hold the field, the authorities are required to act in accordance with the same.

7. For the aforesaid reasons, this Writ Petition stands disposed of, directing the Respondents herein to consider the application of the petitioner with regard to allotment of an extent of Ac.21-09 cents in Sy.No.529/B4 of Mulkalapandla village, Saidapuram Mandal, Nellore District for grant of mining lease in accordance with law. This exercise shall be completed and appropriate orders be passed within a period of three months from the date of receipt of this order. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 24.10.2016
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.7172 of 2010

24.10.2016