

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

WRIT PETITION No.32385 of 2015

ORDER:

In this Writ Petition, the petitioner is questioning the action of respondents in not granting permission to petitioner for establishing an industry in plot Nos.1, 2, 6, 8 and 10 in R.S.No.326 of Dowleswaram Village, Rajahmundry Mandal, East Godavari District.

2. Petitioner is a purchaser of plot Nos.6, 8 and 10 from one Sunkara Venkata Rao under registered sale deed dt.16-02-2002 admeasuring 583.63 sq. meters. Petitioner's wife purchased plot Nos.1 and 2 from the same person under registered sale deed dt.16-02-2002 admeasuring 397.16 sq. meters. Petitioner got his proprietary concern registered with District Industries Center, Kakinada, East Godavari District and obtained acknowledgment on 30-12-2013. Petitioner applied to the 2nd respondent in February, 2014 for grant of permission to establish an industrial unit in the Industrial Area of I.D.A. Dowleswaram, which comes under the purview of 1st respondent.

3. Petitioner categorically asserted that he and his wife

clubbed all the plots purchased by them admeasuring 980.27 sq. meters to start an industrial unit therein. He contends that this action of respondents is contrary to G.O.Ms.No.36 Industries and Commerce dt.29-04-2015 and 2nd respondent cannot be allowed to ignore the norms laid down in that G.O. He also relied upon G.O.Ms.No.423 Municipal Administration and Urban Development (M1) Department dt.31-07-1998, which prescribed that a minimum plot area for setting up of industrial unit is 450 sq. meters and contended that respondents cannot reject petitioner's application.

4. In the counter affidavit filed by respondents, a stand is taken that the extent of plots belong to petitioner and his wife are less than the minimum specified 450 sq. meters, which is the norm for sub-division of plots as per G.O.Ms.No.423 dt.31-03-1998. It is contended that petitioner purchased the industrial plots without approval of sub-division by the APIIC and without prior intimation to the APIIC. It is also stated that even if the petitioner merges his property and that of his wife, these bits of land would be construed as different properties/plots since they are owned by different owners.

5. The State of Andhra Pradesh, which has been

carved out of erstwhile composite State of Andhra Pradesh on 02-06-2014, is aiming to provide opportunities to Industrialists to set up industries within its geographical boundaries to create employment and earn revenue and in pursuant to the objective, has issued G.O.Ms.No.36 Industries and Commerce (IP & INF) Department dt.29-04-2015 indicating its policy promising considerable incentives to set up industries within its area. Unfortunately, the attitude of respondent Nos.1 and 2, who have to implement the said policy, as can be seen from the counter-affidavit filed by respondents, shows that they have no inclination to carry forward this policy of the Government of Andhra Pradesh.

6. When petitioner and his wife jointly intend to set up an industry with an area of 980.27 sq. meters by pooling together the plots owned by them which are adjacent to one another, which is far more than the area specified in G.O.Ms.No.423 Municipal Administration dt.31-07-1998 of 450 sq. meters, the respondents strangely say that petitioner's proposal cannot be accepted simply because he and his wife are separate individuals owning separate bits of property. To say the least, this stand is absurd and totally defeats the policy of the State Government notified in G.O.Ms.No.36 dt.29-04-

2015 referred to above, which aims to attract entrepreneurs to set up industries within the State of Andhra Pradesh. Since the stand taken by respondents is clearly arbitrary and unreasonable, the same cannot be countenanced.

7. Therefore it is declared that the action of respondents in not granting permission for establishing a fabricating industry in the above property is arbitrary, illegal and contrary to G.O.Ms.No.36 Industries and Commerce (IP & INF) Department dt.29-04-2015 and also contrary to Article 14 and 19(1)(g) of the Constitution of India. Consequently, a direction is issued to respondents to grant permission to petitioner for establishing the said industry subject to petitioner complying with other requirements as per law such as obtaining Building permission etc.

8. The Writ Petition is allowed as above. The respondents shall also pay costs of Rs.1,000/- (Rupees One Thousand only) to petitioner within four (04) weeks from the date of receipt of a copy of this order.

9. As a sequel, miscellaneous petitions pending if any, in this Writ Petition shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 03-02-2016

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