

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.9956 of 2010

ORDER:

1. This writ petition was filed challenging the proceedings of the Tahsildar, Rapur Mandal, Nellore District, 4th respondent herein, dated 21.02.2009 and the consequential proceedings issued by the 5th respondent dated 22.01.2010, wherein sanction was accorded to the 6th respondent for commencement of quarrying operations in an extent of Ac.12.47 cents in Sy.No.6/P of Puligilapadu village, Rapur Mandal, Nellore District.

2. The petitioner states that an extent of Ac.450.00 out of Ac.489.93 cents in Sy.No.6/P of Puligilapadu village, Rapur Mandal, Nellore District, was an Inam land. He states that under the provisions of the Andhra Pradesh (Andhra Area) Inams Abolition and Conversion into (Ryotwari) Act 1956, pattas were granted in the year 1977 for the entire extent of Ac.450.00. The said pattas were also implemented in revenue records. The pattadars also alienated some extent of land to some third parties. The petitioner and eight others purchased an extent of Ac.260.00 out of Ac.450.00 by registered sale deeds. While so, when the 4th respondent was taking steps to assign part of the said land in possession of the petitioner in favour of third parties, the petitioner submitted a representation on 10.01.2002 informing that there is no Government land in the said survey number, which is available for grant of house site pattas for assignment. In spite of the said representation, the 4th respondent has assigned and issued pattas in respect of Ac.60.00 of land. Challenging the same, the petitioner preferred an appeal before the Revenue Divisional Officer, Nellore, 3rd respondent herein, who ordered for conduct of survey with regard to the nature of the land assigned. Consequent to the said survey, a report was submitted to the 3rd respondent stating that the land does not belong to the

Government. However, no orders were passed in spite of submission of the report. In those circumstances, the petitioner filed W.P.No.16906 of 2002, which was disposed of by this Court on 13.08.2003 directing the 3rd respondent to dispose of the appeal filed by the petitioner. Thereafter, the petitioner filed Contempt Case No.1011 of 2004 when the said order of this Court was not implemented. When the said Contempt Case was pending, the 3rd respondent issued orders on 24.11.2004 holding that the assignment of the land to an extent of Ac.60.20 cents was invalid. Pursuant to the said order, the 4th respondent issued notices to the persons who were given assignment pattas. Thereafter, the petitioner submitted several representations for taking further action for cancellation of the assignment pattas and after much persuasions, the 2nd respondent passed an endorsement on 06.05.2006 refusing to cancel the assignment made in favour of the third parties. Challenging the same, the petitioner filed W.P.No.11884 of 2006 and the same was allowed by this Court on 15.10.2012 quashing the endorsement dated 06.05.2006 issued by the 2nd respondent and the 3rd respondent was directed to pass final orders on the appeal presented by the petitioner. Now, it appears that the 3rd respondent passed an order on 12.10.2015 cancelling the assignment pattas granted by the then Mandal Revenue Officer, Rapur in favour of 86 Girijan families at the rate of Ac.0.70 cents per family in Sy.No.6/P measuring an extent of Ac.60.20 cents of Puligilapadu village. In the said order of the 3rd respondent, it was also observed that the total extent of the land in Sy.No.6/P is Ac.489.93 cents but not Ac.1356.00, ryotwari pattas were issued for an extent of Ac.450.00, mining lease was granted for an extent of Ac.31.55 cents of land and the land that was left over was only Ac.8.38 cents.

3. While so, in the last week of February, 2010, when the 6th respondent commenced clearing of shrubs and bushes in an extent of Ac.12.00 cents out of Ac.260.00, the petitioner submitted an application under the Right to Information Act, 2005 on 19.03.2010 to the 5th

respondent and in pursuance of which he came to know that the 4th respondent issued proceedings on 21.02.2009 issuing No Objection Certificate for the said lease and a lease was granted in favour of the 6th respondent for an extent of Ac.12.47 cents in the same Sy.No.6/P. Challenging the No Objection Certificate issued by the 4th respondent as well as the sanction of the lease issued in favour of the 6th respondent by the 5th respondent, the present writ petition was filed.

4. This Court by order dated 28.04.2010 suspended the orders passed by respondent Nos. 4 and 5. The said orders have been in operation till today.

5. Respondents 1 to 4 filed W.V.M.P.No.5081 of 2010 seeking vacation of the aforesaid orders. After hearing the parties, the main writ petition is being disposed of.

6. Learned Counsel for the petitioner filed additional documents by producing a copy of the order passed by this Court on 15.10.2012 in W.P.No.11884 of 2006 and the proceedings of the 3rd respondent dated 12.10.2015.

7. Now, by virtue of the order passed by the 3rd respondent, it is clear that after granting ryotwari pattas to an extent of Ac.450.00 and mining lease to an extent of Ac.31.55 cents, the land that was left over was only Ac.8.38 cents. However, it appears that the assignment pattas were granted for an extent of Ac.60.20 cents much beyond the available extent of land. Now, by virtue of the impugned orders in the present writ petition, No Objection Certificate was issued for grant of mining lease for an extent of Ac.12.14 cents and there is no land available.

8. In the circumstances, this Court is satisfied that the proceedings were issued by the respondent Nos.4 and 5 without there being any land available for grant of mining lease and hence the No Objection Certificate issued by the 4th respondent has to be set aside and is accordingly set aside.

9. Learned Government Pleader for Revenue submits that the Government has issued G.O.Ms.No.2 Revenue (Assignment. I) Department, dated 02.01.2013 formulating guidelines for issuance of No Objection Certificates in respect of licenses for mining lease and quarry lease and in view of the same, the District Level Screening Committee, which is constituted, shall issue the No Objection Certificates.

10. Therefore, the 1st respondent is directed to place the matter before the District Level Screening Committee for its consideration with regard to the issuance of No Objection Certificate based on the proceedings of the Revenue Divisional Officer, Nellore, 3rd respondent herein, dated 12.10.2015, which was issued in pursuance of the orders of this Court dated 15.10.2012 in W.P.No.11884 of 2006. In view of the non-availability of the land and setting aside the proceedings of the 4th respondent dated 21.02.2009, the 6th respondent shall not conduct mining operations. The order passed by the 5th respondent dated 22.01.2010 shall be subject to the further orders passed by the District Level Screening Committee.

11. The Writ Petition is accordingly allowed. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

15-03-2016
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