

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 23613 of 2010

Order:

This Writ Petition was filed challenging the orders of the first respondent passed in Final Order No.211/2010, dated 13.07.2010, dismissing the revision petition filed by the second petitioner and for consequential direction to the second respondent to consider the prospecting licence application No.245/PL/2003 filed by the second petitioner for grant of Quartz and Feldspar (Major Mineral) in an extent of Ac.4-25 gts., in Survey No.44/1, situated at Sarangaraopally village, H/o Amlikunta Gram Panchayat, Kosgi Mandal, Mahaboobnagar District.

2. The second petitioner submitted an application before the second respondent through the fourth respondent for grant of prospecting licence for Quartz and Feldspar (Major Mineral) in the above extent of land. The Gram Panchayat, Amlikunta, passed a resolution on 01.08.2006 granting 'No Objection Certificate' for grant of prospecting licence in his favour. The same was endorsed by the Mandal Revenue Officer, Kosgi. Based on the said certificates, the Assistant Director of Mines and Geology conducted field inspection in November 2006, January 2007 and February 2007 and submitted proposals for grant of licence in favour of the second petitioner to the second respondent through the third respondent. It appears that the fifth respondent submitted an application for grant of mining lease in respect of the same area on 08.04.2003, but the said application was rejected and the application of the second petitioner was forwarded. However, the second respondent, by his order dated 10.04.2007, rejected the prospecting licence application of the second petitioner and granted lease in favour of the fifth respondent. The fifth respondent transferred his individual mining licence in favour of one

M/s. Adarsh India Mining (Private) Limited. The fifth respondent and transferred leaseholder did not commence mining operations. In view of the same, the grant of lease in favour of the fifth respondent was lapsed. Challenging the orders passed by the second respondent, dated 10.04.2007, the second petitioner filed a revision before the first respondent. When the said revision was not disposed of for a long time, the second petitioner filed WP No.5384 of 2009 and this Court, by an order

dated 17.03.2009, granted interim direction directing the first respondent to dispose of the revision. Pursuant to the said order, the revision filed by the second petitioner was rejected. Challenging which, the present Writ Petition was filed.

3. In view of rejection of the revision filed by the second petitioner, on submission of the learned counsel for the petitioners, WP No.5384 of 2009 is dismissed as infructuous in view of the present writ petition.

4. When the Writ Petition is pending consideration, the second respondent passed an order in G.O. Ms. No.69, Industries and Commerce (Mines-II) Department, dated 29.09.2015, declaring the lease granted in favour of the fifth respondent as lapsed. It is not known whether the said order has become final or the fifth respondent has challenged the said order in any proceedings. It is clear from the facts that the application of the second petitioner is for prospecting licence, whereas the orders passed in favour of the fifth respondent were for mining lease. In view of the same, learned counsel for the fifth respondent submits that even after declaration of lease of the fifth respondent as lapsed, no direction shall be granted in favour of the second petitioner for consideration of his application, but the learned counsel for the petitioners submits that the area granted for lease in favour of the fifth respondent is a virgin area and in view of the existence of leases in the adjacent lands a lease was granted in favour of the fifth respondent, which was not operated.

5. Whether the land was a virgin land and any prospecting licence can be granted or a lease shall be granted is not the concern of this Court in the present proceedings. In view of the earlier orders passed by the second respondent on 10.04.2007 rejecting the application of the second petitioner and granting mining lease in favour of the fifth respondent, the present writ petition was filed. In view of issuance of G.O.Ms.No.69, Industries and Commerce (Mines-II) Department, dated 29.09.2015, the ground reality has been changed.

6. In the circumstances, without expressing any opinion on the merits of the case, the second respondent is directed to consider the application of the second petitioner, if his application for prospecting licence can be considered in accordance with law, and pass appropriate orders within a period of six (6) months from the date of receipt of a copy of this order. While considering such application, the second respondent shall issue a notice to the fifth respondent also and consider the objections of the fifth respondent, if any.

7. The Writ Petition is, accordingly, disposed of. However, in the circumstances, no costs.

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

A.

RAMALINGESWARA RAO, J.

Date: 08.03.2016

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