

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.3361 of 2011

ORDER:

This writ petition was filed calling for the record relating to letter No.B/1003/2010 dated 17.05.2010 when the said letter showed two survey numbers viz., 94/A and 94/B in its sketch and the petitioner was claiming land in Survey No.94/B to an extent of Ac.0.32 guntas situated at Odayaram Village, Gangadhara Mandal, Karimnagar District.

It is the case of petitioner that Survey No.94 was bifurcated into 94/A & 94/B and Survey No.94/A was a surplus land and was taken over by the Government. It consists also Ac.6.38 guntas and was allotted to seven landless poor persons by giving pattas to them 35 years back under the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. The extent of land in Survey No.94/B is Ac.6.39 guntas. It is the further case of petitioner that respondent No.6 submitted a representation to respondent No.4 for grant of quarry lease in Survey No.94/A to an extent of Ac.6.38 guntas, but showing the land in Survey No.94/B to an extent of Ac.0.32 guntas under Survey No.94/A. When the petitioner came to know of the same, he submitted a representation to respondent No.4 on 23.07.2010 not to grant any lease. In spite of the same when respondent No.4 was trying to give No Objection Certificate (for short, 'the N.O.C.') to respondent No.6, the petitioner filed W.P.No.28005 of 2010 to consider the petitioner's representation. When the said writ petition was pending, the Tahsildar issued N.O.C. on 17.05.2010 showing the quarry area of Survey No.94/A to an extent of Ac.6.36 guntas including the land of petitioner. The petitioner filed another

writ petition in W.P. No.30911 of 2010. The present writ petition is filed challenging the N.O.C. issued on 17.05.2010.

The Tahsildar filed a counter stating that a N.O.C. was issued on 17.05.2010 along with sketch map in respect of the land in Survey No.94/A to an extent of Ac.6.38 guntas. The said certificate was issued prior to filing of W.P. No.28005 of 2010 and W.P. No.30911 of 2010.

Respondent No.4 filed a separate counter stating that on the basis of N.O.C. issued by the Tahsildar on the application of respondent No.6, boundaries were verified and they were found to be correct. Though the said land was originally assigned to seven persons, the land was resumed by the Government for violation of the conditions of assignment. The petitioner has submitted a representation on 23.02.2010 to enquire into the matter as there was confusion with regard to identity of land. On receipt of the representation, the land was surveyed with the assistance of Technical Staff and after the completion of survey proposals were submitted to the Director of Mines & Geology, Hyderabad, on 17.08.2010. The Director of Mines & Geology has granted the quarry lease for a period of 20 years vide proceedings dated 21.10.2010. The lease deed was executed on 29.10.2010.

It is submitted by the learned counsel for respondent No.6 that W.P. No.28005 of 2010 was dismissed for non-prosecution whereas W.P. No.30911 of 2010 was dismissed as withdrawn. In the present case also, the lease was granted in favour of respondent No.6 even prior to filing of the writ petition. The petitioner himself filed O.S. No.110 of 2010 before the Court of Junior Civil Judge, Vemulawada, for declaration of title and perpetual injunction and the said suit was pending adjudication.

In view of the grant of lease in favour of respondent No.6 by

following the due process of law on the basis of N.O.C. issued by the Tahsildar, the N.O.C. cannot be set aside at this length of time. However, since the petitioner had already filed O.S.No.110 of 2010 for declaration of title and perpetual injunction, it is open to the petitioner to pursue the said remedy. It is needless to mention that the learned Junior Civil Judge, before whom the suit for declaration of title and perpetual injunction is pending, shall dispose of the same in accordance with law without being influenced by any observations made in the present order.

With the above observations, this Writ Petition is dismissed. No order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

23.02.2016

MVA