

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.3239 of 2012

ORDER:

Heard Smt.N.Shoba for petitioner, Assistant Government Pleader for respondent Nos.1, 2, 4 and 5, Assistant Government Pleader for respondent No.3 and Sri E.Sambasiva Pratap for respondent Nos.6 and 7.

The circumstances relevant for disposal of writ petition are as follows:

Petitioner on 20.05.2009 applied for grant of quarry lease for gravel (for short 'quarry lease') in S.No.475 of Nagarajupalli Village, Martur Mandal, Prakasam District in an extent of 8.000 hectares. On 04.11.2010, the Tahsildar, Martur Mandal, granted No Objection Certificate and the concluding portion of No Objection Certificate dated 04.11.2010 reads thus:

“In view of the above, I recommend that No Objection Certificate may be issued for grant of quarry lease for quarrying road gravel in the land in S.No.475, measuring an extent of Hec.4.000 of Nagarajupalli Village of this Mandal as applied by the applicant in favour of the applicant Velpula Veeraiah, S/o Kotaiah, Martur Village, Martur Mandal, Prakasam District. I submit herewith the questionnaire in duplicate, copy of A1 notice duly published in the village, copy of R.S.R., copy of field sketch and inspection report of the Tahsildar for favour of kind perusal in the matter.”

On 15.02.2011, 4th respondent issued proceedings in favour of petitioner granting quarry lease for gravel in an extent of 3.966 hectares in S.No.475/P of Nagarajupalli Village, Martur Mandal, Prakasam District. The ordeal of petitioner started with the proceeding issued by 4th respondent granting quarry lease. The effort of petitioner to secure a lease deed from 5th respondent failed and hence the petitioner is compelled to move this Court with the following relief:-

“Writ of Mandamus declaring the action of respondent No.5 in not executing the lease deed in pursuant to the quarry lease granted by the Deputy Director of Mines and Geology in over an extent of 3.966 hectares in S.No.475/P of Nagarajupalli Village, Martur Mandal, Prakasam District in proceedings bearing No.3956/Q3/2009, dated 15.02.2011 and the action of respondents 6 and 7 in not conducting survey and inspection and furnishing the report to Assistant Director of Mines and Geology and the action of the District Collector in not considering the report dated 18.12.2011 as contrary, illegal, unjust and unconstitutional and in violation Mines and Minerals (Development & Regulation) Act 1957, A.P. Minor Mineral Concession Rules 1966 and Forest Conservation Act 1980.”

Respondent Nos. 6 and 7 filed counter-affidavit and also W.V.M.P.No.1544 of 2012 to vacate the interim direction

dated 09.02.2012 in W.P.M.P.No.4062 of 2012. Respondent Nos.6 and 7 in all forms oppose execution of lease deed in favour of petitioner pursuant to proceedings dated 15.02.2011.

Respondent No.5 filed memo dated 04.01.2017 with communication/joint inspection/combined sketch, etc., of quarry lease and the neighbourhood. Respondent No.5 filed counter-affidavit justifying the circumstances under which proceeding dated 15.02.2011 has been issued, the objection of 6th respondent to enter into quarry lease with petitioner and however having regard to Forest Department objections finally prayed that the writ petition may be dismissed.

The 5th respondent through letter dated 26.11.2016 addressed to the office of learned Government Pleader for Revenue attached the joint inspection report dated 21.11.2016.

I have perused the proceedings on which petitioner relies and taken note of the circumstances referred by petitioner complaining inaction in execution of a lease deed in his favour for the quarry lease. This Court is of the view that respondent Nos.1, 2, 4 and 5 will-nilly accepted the objections raised by respondent Nos.3, 6 and 7, but at the same time contend that the proceedings have been issued in accordance with the procedure in vogue and no exception can be taken.

The inconsistent stand of respondents leads to uncertainty to an entrepreneur, if not decided atleast now amounts to harassment from departments and ultimately resulting in ineffective working of a quarry lease, which shall have to be treated as financial loss and notional loss as well. The issue whether to continue the proceedings dated 15.02.2011 and/or any other order is required to be passed including the request of the petitioner restrict the area already granted to him through proceedings dated 15.02.2011 are matters well within the competence and jurisdiction of 2nd respondent.

After perusing the reports filed by the respondents, this Court is of the view that 2nd respondent can be directed to re-examine the issue of grant of quarry lease in favour of petitioner through proceedings dated 15.02.2011 and as noted above take a decision within two months from the date of receipt of a copy of this order.

For the above reasons, I am satisfied, the Writ Petition is disposed of as follows:

The 3rd respondent is directed to forward the joint inspection report dated 21.11.2016 along with certified extracts of revenue records to 2nd respondent after receipt of a copy of this order. The 2nd respondent on receipt of information within two weeks thereafter affords an opportunity to petitioner as well as Tahsildar, Martur Mandal

and respondent Nos.6 and 7, and takes a decision on the desirability to continue the proceedings or suitable orders keeping in view the interest of petitioner and objection of Department as well. The 2nd respondent, in other words entitled to a final decision in this behalf and issue orders if warranted for execution of a lease deed as well. The petitioner has been subjected to trials in securing the lease deed for over six years, this Court directs 2nd respondent to take a decision as directed by this order within three months and communicates the order to petitioner. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

18th January, 2017
ssp

S.V. BHATT, J

