

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.26231 of 2009

ORDER:

This Writ Petition has been filed by the petitioner aggrieved by the action of the 1st respondent in entertaining an appeal under Section 3 (4) of the AP (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 staying the order passed by the Tahsildar, Prathipadu Mandal under Section 3 (3) of the said Act at the instance of 3rd respondent.

2. It is not in dispute that the 2nd respondent had passed the order on 16-02-2009 in Ref.D/306/2005 in respect of land in Chintaluru village holding that it is not an inam village and that the provisions of the Act do not apply to it and all further proceedings under the Act are dropped.

3. The 3rd respondent, which is a partnership firm, had filed Appeal No.B/90/2009 before the Revenue Divisional Officer, Peddapuram (1st respondent) stating that it had been sanctioned a mining lease for a period of 20 years over an extent of Ac.60.00 cts in Sy. No.1 of the Chintaluru village of Prathipadu Mandal under the Mines and Minerals (Development and Regulation) Act, 1957 vide G.O.Ms.No.27 dt.13-02-2007, that it had represented before the 2nd respondent on 07-01-2009 opposing the contention of the Writ Petitioner and without giving any opportunity to 3rd respondent, 2nd respondent had passed the order on 16-02-2009.

4. It is specifically contended that 3rd respondent came to know about the order passed by 2nd respondent after a copy of it was furnished only on 11-06-2009 and therefore the Appeal filed on 11-06-2009 is within limitation.

5. The 1st respondent then entertained appeal filed by 3rd respondent and numbered it as Appeal No.B/90/2009 and stayed the order passed by 2nd respondent.

6. Aggrieved by the entertainment of the appeal at the instance of 3rd respondent by 1st respondent, this Writ Petition is filed alleging that 1st respondent could not have entertained the appeal filed beyond the period of 60 days prescribed in sub Section (4) of Section 3 of the Act. It is contended that the appeal filed in June 2009 by 3rd respondent was not maintainable, and that the 3rd respondent was not aggrieved by the order passed by 2nd respondent.

7. On 02-12-2009 in W.P.M.P.No.34135 of 2009, this Court granted stay of all further proceedings in Appeal No.B/90/2009 on the file of 1st respondent including the order dt.12-06-2009 passed by him pending disposal of the Writ Petition.

8. W.V.M.P.No.1804 of 2010 has been filed by respondent Nos.1 and 2 in the Writ Petition to vacate the above interim order.

9. The Special Deputy Collector, Land Acquisition, PLIS Unit-II, Peddapuram, East Godavari District was also impleaded as per order dt.10-04-2012 in W.P.M.P.No.23977 of 2011.

10. W.P.M.P.No.9616 of 2012 has been filed by 108 persons to implead them as respondent Nos.5 to 112 in the Writ Petition alleging that they are small and marginal farmers of lands situated in Chintaluru village, that they are also aggrieved by the order dt.16-02-2009 passed by 2nd respondent in the Writ Petition dropping proceedings under the Act since they are entitled to ryotwari pattas either under this Act or under the AP (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948, that they have been deprived of an opportunity to apply for patta under the Act and 1st respondent was approached by them for filing an appeal but he is not taking any action for adjudicating their appeal.

11. It is not in dispute that the applicants in W.P.M.P.No.9616 of 2012 in W.P.No.26231 of 2009 had filed W.P.No.9357 of 2010 complaining against the action of 1st respondent in entertaining and adjudicating the appeal allegedly filed by an Association representing all of them questioning the orders passed on 16-02-2009 by 2nd respondent.

12. Having regard to this fact, though the learned counsel for the Writ Petitioner opposed the impleadment of the petitioners in W.P.M.P.No.9616 of 2012, I am inclined to allow this application. Therefore, W.P.M.P.No.9616 of 2012 is accordingly allowed.

13. W.V.M.P.No.1376 of 2012 has been filed by the petitioners in W.P.M.P.No.9616 of 2012 also to vacate the interim

order granted by this Court on 02-12-2009 in W.P.M.P.No.34135 of 2009.

14. Heard Sri Addepalli Suryanarayana, learned Senior Counsel appearing for Sri P.Madhusudhana Kumar, learned counsel for the petitioner, learned Government Pleader for Revenue appearing for respondent Nos.1 and 2, Sri Eranki Phani Kumar, learned counsel for 3rd respondent, learned Government Pleader for Land Acquisition appearing for 4th respondent and Sri Vedula Venkataramana, learned Senior Counsel appearing for Sri Balanaga Srinivas, learned counsel for respondent Nos.5 to 112.

15. In the applications seeking vacation of the interim order, though the respondent Nos.1 and 2 and the impleaded parties raised several contentions on merits, the principle question remains is “whether the appeals preferred by 3rd respondent before 1st respondent as well as the appeal allegedly preferred by the Association of the impleaded respondent Nos.5 to 12 are maintainable or not and also whether the order dt.16-02-2009 passed by 2nd respondent is valid in law or not?”

16. Having regard to the contentions raised by the Writ Petitioners as well as the vacate stay petitioners, I am of the opinion that it is better that these issues are decided by the 1st respondent himself since any expression of opinion by this Court on the claims of either parties would seriously prejudice the adjudication by 1st

respondent. Therefore, I am not inclined to give any finding in this Writ Petition as to the maintainability of the appeal filed by 3rd respondent or by respondent Nos.5 to 112 or as to the correctness of otherwise of the order dt.16-02-2009 passed by 2nd respondent.

17. Therefore, the Writ Petition is disposed of directing 1st respondent to adjudicate about the maintainability of the appeals preferred by 3rd respondent and respondent Nos.5 to 112, and if he comes to the conclusion that such appeals are maintainable, then to go further and decide about the correctness or otherwise of the order dt.16-02-2009 passed by 2nd respondent. All the parties are at liberty to produce all the material they wish to rely upon before the 1st respondent in respect of their respective pleadings and contentions. This exercise shall be completed by 1st respondent within a period of three months from the date of receipt of a copy of this order after giving notices to all parties. He shall decide the same strictly in accordance with law and on the basis of the evidence produced by the parties uninfluenced by any stand taken in this Writ Petition by the then Revenue Divisional Officer or the Tahsildar.

18. Pending adjudication by 1st respondent, status quo prevailing as on today shall be maintained in all respects by all the parties.

19. The interim order passed by 1st respondent on 12-06-2009 staying the order dt.16-02-2009 passed by the 2nd

respondent-Tahsildar, Prathipadu is set aside since interim order of this nature cannot be granted pending decision in the main issue as to whether the village in question is inam village or not. No costs.

20. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 06-04-2017
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