

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.36087 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking the following relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction, more in the nature of writ of Mandamus, declaring the action of the respondents 2 to 4 in not granting quarry lease for building stone and road metal to the petitioner basing on application of the petitioner dated 21-12-2015 for an additional extent of Ac.2.16 hectares in Sy.No.222/2, situated at Jayhyaram village, Palakurthi Mandal, Peddapalli Distraicat, despite NOC being granted by the 5th respondent on the said application of the petitioner vide reference No.B/B4/2016, dated 26-2-2016 is arbitrary, unjust and violative of Rules 12 & 13 of APMMC Rules 1966, besides violative of Article 14 of the Constitution of India, and consequentially direct the respondents 2 to 4 to consider the said application of the petitioner for grant of quarry lease and to pass such other order or orders as this Hon'ble Court deems fit and proper in the interest of justice.”
(Reproduced verbatim)

2. I have heard *Sri A.Tulsi Raj Gokul*, learned counsel appearing for the petitioner and of the learned Government Pleader for Mines & Geology, appearing for respondents 1 to 4 and of the learned Government Pleader for Revenue, appearing for the 5th respondent. I have perused the material record.

3. Learned counsel for the petitioner while reiterating the averments in the writ petition would mainly contend as follows: ‘No action is taken by the respondents 2 to 4 on the application of the petitioner, dated 21.12.2015, for granting quarry lease for an additional

extent of Ac.2.16 hectares in Sy.No.222/ 2 of Jayyaram village. In the writ petition, a consequential direction is also sought to consider the application of the petitioner for grant of quarry lease. The application of the petitioner is not being considered despite the Tahasildar concerned giving No Objection Certificate. The respondents 2 to 4 are contemplating to grant the lease in respect of the subject property in favour of the 6th respondent. Hence, the writ petition is filed.'

4. The learned Government Pleader, on written instructions, submits that a lease was already granted in respect of the subject property in favour of the 6th respondent, on 28.07.2017. Basing on the written instructions, learned Government Pleader appearing for respondents 1 to 4 would submit that the details of the applicants like, the dates of the applications, the extents for which the applicants applied for grant of leases, the No Objection Certificates received and various other facts are considered by the authority concerned before the lease for the subject area was granted to the 6th respondent and that a joint survey was also conducted in that regard and that the petitioner has not intentionally participated in that joint survey and that the due procedure was followed and the lease was thus granted in favour of the 6th respondent, and that, therefore, the writ petition is not maintainable and is liable to be dismissed.

5. Learned counsel for the petitioner, in reply, would submit that the petitioner came to know about the proceedings related to the lease granted in favour of the 6th respondent in respect of the subject area on this day only, for the first time, and that, therefore, the writ petitioner may be permitted to withdraw the writ petition reserving liberty to the

petitioner to challenge the proceedings granting lease in favour of the 6th respondent, if he so desires.

6. Having regard to the facts and submissions, the Writ Petition is dismissed as withdrawn, however, reserving liberty to the writ petitioner to file a fresh writ petition, if he is so advised and so desires, to challenge the proceedings, dated 28.07.2017 granting quarry lease in respect of the subject property in favour of the 6th respondent.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

30th October, 2017
RAR

M. SEETHARAMA MURTI, J

