

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.3613 of 2017

ORDER:

In this writ petition, petitioner is aggrieved by the No Objection Certificate (NOC) issued by the second respondent – District Magistrate & District Collector, Kurnool, vide proceedings D.Dis.C1/108/2016, dated-Nil-.08.2016, with respect to the land admeasuring 777.00 sq.meters in Survey Nos.138/A and 138/B situated at Koilakuntla Village and Mandal, Kurnool District.

It is the case of the petitioner that he is the owner and possessor of the land to an extent of Ac.0.42 cents in Survey No.138/A situated at Koilakuntla Village and Mandal, Kurnool District. It is the claim of the petitioner that the sixth respondent, who is the adjacent land owner, without there being any sub-division in Survey No.138/A, is claiming right over Ac.0.29 cents of land by specifying Survey No.138/B1A, and had approached the second respondent to establish a petroleum retail outlet thereon as a dealer of respondent No.5. The revenue officials without adverting to the objections raised by the petitioner particularly, with regard to the pendency of the civil suits, namely, O.S.No.44 of 2016 filed by the petitioner and

O.S.Nos.9 and 32 of 2016 by the sixth respondent, in the Court of III Additional District Judge, Kurnool at Nandyal, had issued NOC causing irreparable loss to the petitioner.

It is the specific contention of the learned counsel for the petitioner that the second respondent is not empowered to decide the title with respect to the subject property and by issuing NOC, had indirectly certified the title of the sixth respondent which would cause enormous damage to the petitioner. It is also the contention of the learned counsel for the petitioner that NOC would be used as a piece of evidence in the civil suits and there is a likelihood of the Court taking the same into consideration as it is issued by the public authority.

On the other hand, learned counsel for the sixth respondent would submit that the schedule property in O.S.No.9 of 2016 filed by the sixth respondent is in Survey No.138/B1A and the property over which the petitioner claims right is in Survey Nos.138/A and 138/B. However, title over the property in question would be decided by the civil Court. He would further submit that NOC is issued under the Petroleum Rules only for a limited purpose i.e., certifying the suitability or otherwise of the property for establishment of a petroleum retail outlet. He would

also submit that NOC issued in favour of the sixth respondent is not intended to be used as a piece of evidence in the civil suits.

Learned Government Pleader submits that NOC was issued by the second respondent after verifying the suitability or otherwise of the site for establishment of petroleum retail outlet and there is no mention in NOC issued in favour of the sixth respondent with respect to the title. He further submits that the orders of the civil Court would be binding and that NOC was issued by the second respondent on the application filed by the sixth respondent after verifying *prima facie* material and the same cannot be construed as expressing any opinion with respect to the title of either of the parties.

It is to be seen that the petitioner's challenge is with regard to NOC issued in favour of the sixth respondent. The relevant factors that are required to be considered for issuance of NOC are location and suitability of the site for establishment of a petroleum retail outlet, as rightly submitted by the learned counsel for the sixth respondent and the learned Government Pleader. In issuing NOC, the revenue authorities play a limited role i.e., verification of suitability or otherwise of the site and the safety precautions which are required to be complied with in the process of establishment of a petroleum outlet. The same is

evident from NOC issued in favour of the sixth respondent. It is apparent that there is a rival claim between the petitioner and the sixth respondent with respect to the site in issue. The question as to whether there is a valid title in favour of the sixth respondent in respect of the property in question and whether the sixth respondent has encroached into the subject site or not, would be decided by the civil Court.

In those circumstances, the writ petition is disposed of, by making it clear that NOC cannot be used as a piece of evidence in support of the case of the sixth respondent.

Miscellaneous Petitions, if any pending shall stand dismissed. There shall be no order as to costs.

3rd JANUARY, 2018.

kvni

CHALLA KODANDA RAM, J