

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.15041 of 2017

ORDER:

The 1st petitioner claims that she is the owner and possessor of agricultural land to an extent of Ac.5.00 cents situated in Survey No.61 of Kumarpuram Village, Pithapuram Mandal, East Godavari District. Similarly, the 2nd petitioner is also owner of land to an extent of Ac.3.24 cents situated in Survey No.58 of the same village. Since the said lands were not used for agricultural purposes, the petitioners decided to convert the same for formation of layout for plots and they obtained permission for conversion of said lands from the concerned revenue authorities on 02.04.2013 and 12.08.2013 respectively. A separate permission was also obtained from the Director of Town and Country Planning by letters, dated 31.05.2013 and 25.01.2014. Since the lands were uneven and covered by bushes, the lands were levelled. After levelling lands, they purchased 6957 Cbm of gravel from the lease holder of the mine and purchase was made under valid waybills. While so, a show-cause notice was issued on 26.09.2014 by the Regional Vigilance and Enforcement Officer, Rajahmundry, by taking measurements of the site on 11.07.2014. A demand notice was issued for 27246 Cbm of gravel and earth. Though documentary evidence was produced for 6957 Cbm, they could not produce royalty paid bills for 20289 Cbm. It was assumed that the land owners developed the layout without payment of seigniorage fee to the Government for a quantity of 20289 of gravel and earth and accordingly, on the recommendations of the Regional Vigilance & Enforcement Officer, a show-cause notice was issued for

payment of seigniorage fee for the quantity of 20289 Cbm of gravel and earth along with five times penalty. Since there was no purchase involved in the utilization of gravel and a revision petition was filed before the 1st respondent on 29.10.2016 along with an application seeking condonation of delay in preferring the revision. The said revision along with condonation delay petition was dismissed by order, dated 19.01.2017 observing as follows:

“2. The applicant has filed Revision Application before the Government on 29.11.2016 under Rule 35-A of APMMC Rules, 1966, against the Demand Notice No.1873/Vg/2014-1, dt.12.03.2015 of the Assistant Director of Mines & Geology (Vig), Rajahmundry, after expiry of the prescribed time of (90) days, under Rule 35-A of APMMC Rules, 1966. The delay in filing the Revision application is (01) year (05) months.

3. The Revisional Authority examined the revision application in the light of APMMC Rules, 1966 and held that the revision application filed by Smt. Theeda Padmavati & another, East Godavari District, deserves no consideration for condonation of the delay under 35-C of APMMC Rules, 1966, as it was filed with a delay of (01) year and (05) months. Further the reasons mentioned in the revision application for condonation of delay are not Tenable. Hence, the Revision Application is rejected, duly returning the revision application in original.

4. The receipt of this letter may be acknowledged for record.”

Challenging the same, the present Writ Petition is filed.

2. Learned counsel for the petitioners submits that the 1st respondent while considering the application for condonation of delay, ought to have issued a notice to the revision petitioners and without issuing such notice, the impugned order was passed. The right of petitioners for receipt of a notice, even while considering

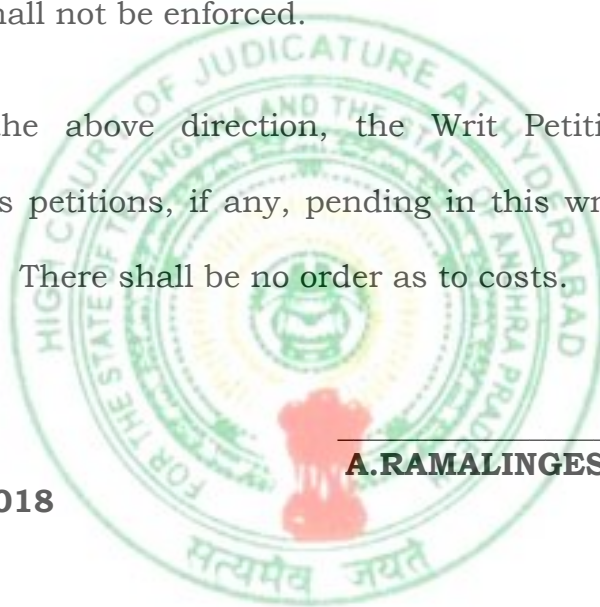
the application for condonation of delay, is not disputed by learned Government Pleader appearing for the respondents.

3. In the circumstances, the impugned letter, dated 19.01.2017 is set aside and the matter is remanded to the 1st respondent for consideration of revision petition of the petitioners along with the application seeking condonation of delay of one year five months afresh, in accordance with law. Till the 1st respondent passes an appropriate order either on the application for condonation of delay or in the revision petition, the demand proposed against the petitioners shall not be enforced.

4. With the above direction, the Writ Petition is allowed. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

APRIL 25, 2018
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A.RAMALINGESWARA RAO, J



THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO



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Date:25.04.2018

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