

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.43747 of 2017

ORDER:

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

'...to issue an appropriate Writ, order or direction more particularly one in the nature of *Writ of Mandamus* declaring the proceedings of the 2nd respondent dated 29.03.2017 in Proceedings No.160/Sand/2016 as illegal, null, void and arbitrary, and consequently direct the 2nd Respondent to grant permission to the petitioner for decasting the sand in the patta lands in Survey Nos.77, 77/1, 79, 79/A, B, 81 and 81/A of Kuntlam Village, Mahadevpur Mandal, Jayashankar Bhupalpally District and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. I have heard the submissions of learned counsel for the petitioner, learned Government Pleader for Mines and Geology appearing for respondents 1 to 3 and learned Standing Counsel appearing for the fourth respondent. I have perused the material record.

3. Learned counsel for the petitioner brings to the notice of this Court the earlier common order of this Court, dated 06.11.2017, in W.P.No.15492 of 2017 and batch, by *inter alia* stating that the issue raised in the present writ petition is squarely covered by the said common order of this Court. He, therefore, submits that the writ petition may be disposed of in terms of the said common order.

4. The operative portion of the said common order, dated 06.11.2017, of this Court, reads as under:

"For the aforesaid reasons, the writ petitions are allowed, setting aside the proceedings No.160/Sand/2016, dated 29.03.2017, of the District Collector, Bhupalapally District, at Bhupalapally and consequently the respondents are directed to grant permission to the petitioners herein for de-casting the sand from their subject patta lands. As a sequel to the disposal of the writ petitions, miscellaneous petitions, if any, pending shall stand disposed of.

5. However, learned Government Pleader appearing for respondents 1 to 3, on written instructions, would submit that the District Level Sand Committee, in its second meeting held on 23.03.2017, gave detailed reasons and that as the contention of the writ petitioner is that the impugned order is an unreasoned order, the writ petition is not maintainable. He also draws the attention of this Court to the letter, dated 11.03.2015, of the Assistant Director of Mines and Geology, Warangal, addressed to the District Collector, Warangal, wherein it is stated as follows:

“Further, it is submitted that the subject area was jointly inspected by the Mines and Geology Officials, Ground Water Department and Revenue Officials in the presence of Pattadar's on 07.02.2015 and reported that the Mandal Surveyor, Eturnagaram Mandal has fixed the boundaries for patta lands which are abutting to the river and as per local enquiry it is noticed that during the floods 1985-86 the adjacent streambed patta land were eroded and abutting in the river. The sand de-casting in patta lands is fine grained useful for civil construction purpose. Further, reported that the said patta land is going to be submerged under the Khanthanapally project.

It is further submitted that the sand bearing areas in the submergence area under the Khanthanapally Project at Etur and Thupakulagudem Villages has been handed over to the TSMDC Ltd., Hyderabad, for extraction and transportation of the sand under Rule, 8(c) of TSSMR, 2015 vide District Collector, Warangal proceeding No.1661/Sand/2014, dated 16.02.2015.

Therefore, I request the District Collector, Warangal to kindly reject the above applications as the said patta lands is going to be submerged under the Khanthanapally project.

The record of enquiry is herewith submitted for favour of information and necessary action in the matter.”

He would finally submit that the earlier batch of writ petitions was disposed of by this Court after giving an opportunity to the respondents for filing a counter.

6. I have carefully perused the pleadings and the material documents, particularly, the paragraphs of the documents, to which the attention of this Court is specifically drawn. I have also carefully perused the common order, dated 06.11.201, of this Court in the aforesaid batch of writ

petitions. All the contentions, which the Government Pleader now sought to advance, were considered by this Court in the said order and this Court noted that the impugned proceedings were issued rejecting the de-casting of sand from patta lands on technical grounds and for the reasons assigned in the said orders, this Court came to the conclusion that the proceedings impugned are liable to be set aside and accordingly, set aside the proceedings No.160/Sand/2016, dated 29.03.2017, which are also impugned in this writ petition.

7. On the above analysis, this Court finds that the issue involved in the present writ petition is squarely covered by the aforestated orders of this Court.

8. For the reasons alike as were mentioned in the aforestated common order, dated 06.11.2017, this writ petition is allowed setting aside the proceedings No.160/Sand/2016, dated 29.03.2017, of the District Collector, Jayashankar Bhupalapally District. Consequently, the respondents are directed to grant permission to the petitioner herein for de-casting the sand from his subject patta lands. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

M.SEETHARAMA MURTI, J

Date: 02.01.2018
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