

(2012) 12 AP CK 0020

Andhra Pradesh High Court

Case No: Writ Petition No. 17357 of 2012

K. Ramachandra Reddy

APPELLANT

Vs

Government of Andhra Pradesh
and Others

RESPONDENT

Date of Decision: Dec. 18, 2012

Citation: (2013) 1 ALD 588 : (2013) 1 ALT 456 : (2013) 3 EFLT 237

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: N. Shoba, for the Appellant; K. Ramakanth Reddy, (SC for Wakf Board), Counsel for the Respondent Nos. 2 and 3 and M. Mehdi Hussain, Counsel for the Respondent No. 6, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.

The Jamia Mosque in Palkur Village of Banaganipalli Mandal, Kurnool District, owns various extents of land. One such bit is the land in Survey No. 303, admeasuring about Acs. 10.00 cents. Out of that, the petitioner was granted mining lease to quarry lime stone slabs over an extent of one acre, on 14.11.2008, by the Department of Mines & Geology, for a period of three years. It was granted on the consent given by the A.P. State Wakf Board-2nd respondent. A clause was incorporated to the effect that the renewal in favour of the petitioner would be considered in case the 2nd respondent agrees for the same. The 2nd respondent gave consent for grant of mining lease in favour of the 6th respondent for the total extent of Acs. 10.00 cents of land, including the land that was leased to the petitioner. Since the consent was not given for renewal of lease by the 2nd respondent in favour of the petitioner over the extent of one acre, the Assistant Director of Mines & Geology, Banagnipalli Mandal-5th respondent did not renew the mining lease of the petitioner. The petitioner challenges the action of the 2nd respondent and the authorities of the Mines & Geology. He contends that being

hopeful of getting the renewal of lease, he made investments, and stoppage of the same would lead to hardship and loss.

2. Heard the learned Counsel for the petitioner, learned Government Pleader for the respondents 1, 4 and 5, learned Standing Counsel for the respondents 2 and 3, and the learned Counsel for the 6th respondent.

3. The petitioner got mining lease over an extent of one acre of land, which admittedly owned by a Wakf Institution. Obviously, the lease was granted on the consent given by the Wakf Board. The renewal of lease depends upon the consent of the Wakf Board. By the time, the petitioner filed application for renewal of the lease, the 2nd respondent gave consent for grant of mining lease over the total extent of Acs. 10.00 cents of land in favour of the 6th respondent. This area included the one on which the lease was granted to the petitioner. Though the petitioner does not claim any right of ownership, since he has already started mining operations, the 2nd respondent ought to have given an opportunity to the petitioner, before it intended to give consent to the 6th respondent. It is not a case where the 2nd respondent does not want any mining activity to take place upon the land owned by it. The very fact that it has given consent in respect of not only the extent of Ac. 1.00 cents, but also Acs. 9.00 cents more, discloses that its interest is only in earning revenue. The petitioner deserves to be given an opportunity in this regard.

4. Hence, the writ petition is disposed of directing that,

(a) the 2nd respondent shall conduct auction between the petitioner on the one hand and the 6th respondent on the other within a period of ten (10) days from the date of receipt of a copy of this order, for grant of permission, to obtain mining lease over the extent of Ac. 1.00 cents of land in Survey No. 303 of Palkur Village, Banaganipalli Mandal, Kurnool District, which is in possession of the petitioner.

(b) If the petitioner emerges as the highest bidder, he shall be under obligation to pay the amount so fetched to the 2nd respondent duly ensuring that the amount collected for that area from the 6th respondent is returned to him.

(c) In such an event, the 5th respondent shall be under obligation to consider the application for renewal of mining lease.

(d) If on the other hand, the 6th respondent emerges as the highest bidder, no further steps have to be taken.

There shall be no order as to costs. The miscellaneous petition filed in the writ petition also shall stand disposed of.