
(2013) 01 AP CK 0018

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 24941 and 30638 of 2010

G.L.K. Granites

APPELLANT

Vs

Government of A.P. and Others

RESPONDENT

Date of Decision : 21-01-2013

Acts Referred:

Citation : (2013) 4 ALT 241

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : D. Venkat Reddy, for the Appellant; N. Shoba, Counsel, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The subject matter in both the writ petitions is common. Hence, they are disposed of through a common order. The parties referred to, as arrayed in W.P. No. 24941 of 2010. The petitioner was granted mining lease to quarry colour granite over an extent of 2.00 Hectares of land in Survey No. 596 of Nagulamalyal Village, Karimnagar Mandal and District vide proceedings, dated 14.06.2006, for a period of 20 years by the Director of Mines & Geology, 2nd respondent herein. The Assistant Director of Mines & Geology, Karimnagar, 3rd respondent herein, submitted a report to the 2nd respondent stating that the petitioner did not operate the quarry, nor did it pay the dead rent. The 2nd respondent issued a show cause notice, dated 02.05.2009, requiring the petitioner to explain as to why the lease, be not determined. Stating that the notice sent through registered post was not claimed, and that no explanation was received, the 2nd respondent passed an order, dated 21.10.2009 determining the lease in exercise of powers under Rule 12(5)(h)(xii) of the Andhra Pradesh Minor Mineral Concession Rules, 1966. Feeling aggrieved by that order, the petitioner filed a revision before the 1st respondent. The revision was rejected through order, dated 16.09.2010. The petitioner filed W.P. No. 24941 of 2010 against that order.

2. The petitioner contends that the show cause notice was not received by him at all and that the determination of lease is not only violative of the Rules, but also the principles of natural justice.

3. It is stated that the 2nd respondent granted lease over the said area in favour of the 4th respondent. W.P. No. 30638 of 2010 is filed against the same.

4. Separate counter-affidavits are filed on behalf of respondent Nos. 2 and 3 on the one hand and respondent No. 4 on the other. According to them, the petitioner did not commence the mining operations over the land and when it was found that the dead rent was not paid, show cause notice was issued and the lease was ultimately determined. According to them, the show cause notice was issued to the same address that was furnished by the petitioner and since the notice was rejected unclaimed, it is deemed to have been served.

5. Sri D. Venkat Reddy, learned counsel for the petitioner submits that his client has been paying the dead rent year after year and taking advantage of inadvertent delay in payment of dead rent for a particular year, the respondents have stage managed the entire proceedings. He submits that even after the determination of the lease, respondent Nos. 2 and 3 issued notices to the same address demanding dead rent for the concerned year and subsequent period; and that the amount has since been paid.

6. The learned Government Pleader for Mines and Geology submits that though the petitioner obtained lease over an extent of 2.00 Hectares, no activity was undertaken and even dead rent was not paid for a particular period. He submits that the prescribed procedure was followed before the lease was determined and that lease was granted in favour of the 4th respondent.

7. Smt. N. Shoba, learned counsel for the 4th respondent, submits that it is only the default committed by the petitioner, that has resulted in determination of the lease and thereafter, the Department has granted lease in favour of her client.

8. The lease was sanctioned in favour of the petitioner way back in the year 2006 for a period of 20 years. It appears that no activity was undertaken upon it, and the petitioner was only paying the dead rent for some period. Stating that the dead rent for the year 2009-2010 was not paid within the stipulated time, the 2nd respondent issued a show cause notice, dated 02.05.2009 to the petitioner. An endorsement was made on the envelope to the effect that the addressee has unclaimed the postage and accordingly it was returned to the sender. The 2nd respondent took the same as valid proper service and passed an order, dated 21.10.2009, determining the lease. The revision filed against it was also rejected by the 1st respondent.

9. The petitioner does not dispute that the 2nd respondent has the power to determine the lease in case valid grounds exist. Non-payment of dead rent certainly constitutes a ground for determination of an existing lease. However, a notice is required to be issued before such a step is taken. In the instant case,

the show cause notice was sent to the petitioner through registered post to the same address, that was furnished by the petitioner. The original of the postal cover together with the endorsement are produced. It was mentioned upon it that the addressee has unclaimed it and accordingly it was returned to the sender. The 2nd respondent proceeded on the assumption that there was proper service of notice and accordingly passed an order, dated 21.10.2009.

10. The petitioner has produced a letter, dated 07.10.2010, said to have been issued by the concerned Post Master, Karimnagar. The letter is couched in equivocal terms. The Post Master stated as under:

The RL No. 3499 stated to have been booked by Assistant Director of Mines & Geology to M/s. G.L.K. Granites, H. No. 10-03-383, Hindupuri Colony, Karimnagar appears to be not received in this office as per the records.

11. From this, it is difficult to conclude that the respondents did not forward the notice at all, to the petitioner. It is a matter of common knowledge that once a registered post is sent, it would naturally reach the addressee; and it will come back to the sender, if for any reason it could not be delivered. The petitioner does not dispute that the notice was sent through registered post. It is not their contention that the address mentioned on the cover is incorrect. If the cover was returned unclaimed, the respondents cannot be blamed for it. The mere fact that a demand notice was sent to the same address subsequent to the determination and it reached the petitioner, cannot constitute a ground to doubt the bona fides of the respondents. On the other hand, it would be a fact that would militate against the petitioner. If, a letter with the same address has reached the petitioner, there is no reason to believe that the show cause notice did not reach the address.

12. On merits also, the petitioner does not dispute that the dead rent for a particular period was not paid. Things would have been different, had the petitioner taken any steps to pay the dead rent even with the delay. It is the petitioner that has invited the circumstances, which led to the determination of the lease.

13. The 1st respondent has also examined the matter in detail and arrived at just and proper conclusion. This Court is not inclined to interfere with the orders challenged in the writ petitions.

14. The writ petitions are accordingly dismissed. There shall be no order as to costs. The miscellaneous petitions filed in these writ petitions shall also stand disposed of.