

***HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**
+WRIT PETITION No.30796, 32252 of 2014 & 31072 of 2022

+WP No.30796 of 2014

Between:

#B.a.s.granites, Kurnool

...PETITIONER

AND

\$Prl Secy I C Mines Dept Govt Of Ap Hyd 3 Others and **...RESPONDENT(S)**
Others

JUDGMENT PRONOUNCED ON **21.02.2025**

THE HON'BLE DR.JUSTICE K. MANMADHA RAO

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? - Yes -
2. Whether the copies of judgment may be marked to Law Reporters/Journals - Yes -
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? - Yes -

DR.JUSTICE K. MANMADHA RAO

* THE HON'BLE DR.JUSTICE K. MANMADHA RAO

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Others

! Counsel for the Petitioner : Sri I. Koti Reddy
Sri K.S. Murthy
Sri Ponnada Sree Vyas

! Counsel for Respondents: Sri P. Rama Krishna, GP for Mines & Geology
Sri B. Adinarayana Rao
Sri P. Kamalakar

<Gist :

>Head Note:

? Cases referred: 1. 2002 (1) ALT page 466
2. (2016) 9 SCC 240

APHC010107582014



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3310]

FRIDAY ,THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 30796/2014, 32252 of 2014 and 31072 of 2022

WP No.30796/2014

Between:

B.a.s.granites, Kurnool

...PETITIONER

AND

Prl Secy I C Mines Dept Govt Of Ap Hyd 3 Others and
Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.KOTI REDDY IDAMAKANTI

Counsel for the Respondent(S):

1.GP FOR MINES AND GEOLOGY (AP)

2.P KAMLAKAR

The Court made the following:

COMMON ORDER:

As the issue involved in all these writ petitions is one and the same,
they are being taken up for hearing as well as disposed of by way of this
Common Order.

2. WP Nos.30796 and 32242 of 2014 have been filed seeking to quash the Memo No.25528/M.I(1)/2001-2021 dated 27.8.2015 and to set aside the quarry lease granted by the 2nd respondent in favour of M/s Golden Granites (4th respondent in WP No.30796/2014 and 6th respondent in WP No.32252/2014), dated 12.11.2001 vide proceedings No.34354/R3(2)/2001.

3. Whereas, WP No.30172 of 2022 has been filed seeking to declare the action of the 4th respondent -District Collector in issuing Rc No.E1/41/2021, dated 12.10.2021 and consequential order of 2nd respondent-DMG proceedings No.742/D9/2022, dated 17.8.2022 renewing the mining lease in favour of 7th respondent in Sy No.55/6 of R.L Puram village, Chimakurthy Mandal, Praksam district, without verifying the veracity of NOC issued by the MRO and not waiting for report having called for the same on 4.8.2022, as illegal and arbitrary.

4. Since the facts in all the writ petitions are similar and identical, therefore WP No.30796 of 2014 is taken as lead case, and the facts therein hereinafter will be referred to for convenience.

5. Brief facts of the case are that, the petitioner is a registered Firm engaged in mining activities. The present writ petition is filed questioning the order of the 1st respondent in Memo No.25128/M.1(1)/2001-2021 dated 27.8.2014 whereby the Revision Petition has been dismissed against the petitioner herein. It is stated that the 4th respondent herein has been granted with a prospecting license over an extent of 6.78 acres in Sy.No.55/6 of the

R.L.Puram Village, Chimakurthy Mandal, Prakasam District by the 2nd respondent on 29.8.2001 and later on a quarry lease was also granted on 12.11.2001 for a period of 20 years. These proceedings have been questioned by the petitioner herein by way of a Revision under Rule 35A of A.P. Minor Mineral Concession Rules, 1966 (for short "APMMC Rules") on various grounds, but the 1st respondent has summarily dismissed the same under the impugned order. Hence this writ petition

6. The main crux of the case is that, several lands of vast extents situated in different villages like R.L.Puram and Chimakurthy were belonging to Telekepally family. There was a suit filed in O.S.No.183/1932 in the court of District Munsiff, Ongole, for partition by RamaswamySarma, S/o.Purushottam against his father and other sharers. A compromise decree was passed on 17.12.1937 and the shares were allotted to different groups of the family thereunder. The Survey No.55/6 of R.L.Puram was having 45.90 acres and this devolved upon 7 joint pattadars and one of them is Telekepally PedaKrishnaiah, who got $7/12^{\text{th}}$ undivided share amounting to 9.85 acres. His daughter-in-law and grandchildren have executed a sale deed in favour of the petitioner dated 17.12.2005 for an extent of 3.36 acres in Sy.No.55/6 out of their share of 6.78 acres and since then the petitioner has been in possession and enjoyment of the same. The 4th respondent herein claims to be the owner of the said land. They claim that Manduva SrinivasRao has purchased 10.01 acres of land from the said Arundhatamma on 20.1.1992 and he sold the same under two sale deeds of 3.00 acres and 3.78 acres to Sai Enterprises

and to Manduva Ram Babu respectively. It is further stated that the 4th respondent partnership Firm was formed on 23.5.2000 and its registration Number is 52/2000. It applied for a prospecting license in respect of the 6.78 acres of land in Sy.No.55/6 on 25.5.2000. The M.R.O, Chimakurthy issued NOC on 18.3.2000 in favour of 4th respondent and basing on that the 2nd respondent issued a prospecting license on 29.8.2001 for a period of 2 years. Thereafter, the 4th respondent filed an application for conversion of prospecting license into quarry lease on 12.10.2001 and the same was granted by the 2nd respondent on 12.11.2001 for a period of 20 years.

It is further stated that, some of the parties to the O.S.No.183 of 1932 belonging to Guda family filed W.P.No.7303/1993 before this Hon'ble Court for Mandamus to the Collector, Prakasam District to conduct an enquiry into the NOC issued by the MRO in respect of Sy.No.55/6. The same was disposed of by this Court vide order dated 16.2.2000 and directed the Collector to conduct enquiry and to ascertain facts from the revenue records or other documents that may be available and only thereafter to issue NOC in respect of Sy.No.55/6 of R.L.Puram Village. Further, the 3rd respondent herein was also a party to the said case and M.SrinivasaRao is also a party to it. Basing on the same, the District Collector issued letters dated 14.3.2000 and 23.10.2001 to the MRO, Chimakurthy asking him not to issue any NOC in respect of Sy.No.55/6 of R.L.Puram Village, without his prior permission. The above version of the 4th respondent is factually incorrect and legally also unacceptable. Once the quarry lease application dated 25.2.1999 is rejected,

the NOC granted in that connection will also lose its relevance and the same cannot be considered once again for the subsequent applications filed for prospecting license. It is stated that the prospecting license and quarry lease granted in favour of 4th respondent were questioned by Guda Anjaneyulu and M/s.RamaTeertham Granites in W.P.No.25860 and 24899 of 2001 in this Hon'ble Court. They were dismissed by this Court vide order dated 6.2.2002 on the ground of availability of alternative remedy under Rule 35A of Rules and hence the writ petition is not maintainable.

It is stated that the above Rama Teertham Granites and Guda Anjaneyulu have filed petitions before the District Collector questioning the grant of NOC by the MRO on the ground that the same were against the order of this Hon'ble Court in W.P.No.7303/1993 dated 16.2.2000. Those petitions were allowed by the Collector on 9.10.2002. The 4threspondent herein questioned the order of the Collector in W.P.No.21075 and 21076 of 2002. Those writ petitions were allowed on 26.10.2005 and the orders of the District Collector were set aside. Against the order in one of those writ petitions in W.P.No.21075/2002 the petitioner herein filed an appeal and it was dismissed at the SR stage itself by the Division Bench on 21.8.2007 observing that the reasons recorded in the order passed in W.A.No.307/2007 shall be read as part of this order.Accordingly, the petitioner filed a Revision Petition before the 1st respondent raising all the contentions pertaining to the grant of NOC by the MRO, grant of prospecting license and quarry lease by the 2ndrespondent in favour of the 4threspondent and the validity of the quarry lease granted in

favour of the 4th respondent etc. The said Revision Petition was not disposed of by the 1st respondent for several years and this necessitated filing of writ petition No.26326 of 2013 for a direction to the 1st respondent for disposing of the Revision Petition expeditiously. In the said Writ Petition, this Court while disposing of the writ petition directed the 1st respondent to dispose of the Revision Petition within 3 months. Since the order was not complied with, the petitioner was compelled to file CC No.436 of 2014 and during the pendency of the same the 1st respondent passed orders dismissing the Revision Petition on 27.8.2014. In the light of above circumstances, the rights of the 4th respondent herein, rep. by M.Srinivasa Rao, were no way decided in that suit since the plaintiff failed to establish its rights over the said land. In any case, neither the petitioner nor its vendor were parties to that litigation. Therefore, the prospecting license and quarry lease granted in favour of the 4th respondent are clearly illegal and are liable to be quashed. Hence, the present writ petition.

7. The pleadings which are cited in the above writ petition, the same are adopted by the petitioners in WP No.32252 of 2014.

8. Further, as the lease granted to the M/s. Golden Granites expired in the month of November 2021, they submitted an application dated 9.11.2020 for renewal of lease and the same was renewed by the 2nd respondent/DMG vide proceedings No.742/D9/2022 dated 17.8.2022. Questioning the same, the petitioner B A S Granites has filed another WP No.31072 of 2022 before this Court.

9. Counter affidavits have been filed in these matters.

10. The counter affidavit has been filed by the respondents no.1 to 3 in WP No.30796 of 2014. In the counter, while denying the allegations made in the petition, inter alia, contended that, the 4threspondent has filed an application for conversion of the Prospecting License into quarry lease on 12-10-2001 and after completion of survey and inspection, the 3rdrespondent has submitted proposals to the 2nd respondent to convert the Prospecting License into quarry lease vide letter No.7400/Q/2001 dated 19-10-2001, in-turn the 2ndrespondent has granted the quarry lease in favour of 4threspondent vide Prods.No.34354/R3(2)/2001, dt:12-11-2001 subsequently the lease deed was executed by the 3rdrespondent vide Procs.No.7400/Q/2001, dt:16-11-2001 and the lease will be in force upto 15-11-2021. It is further stated that, the petitioner and Sri D. Suresh Babu and Sri G.Anjaneyulu and others have filed revision application before the 1strespondent against the grant order No. 34354/R3(2)/2001, dated: 12-11-2001 of the 2nd respondent. Inturn, the 1st respondent has disposed of the revision application of the petitioner and others on 27-8-2014 vide its order No. 25528/M1(1)/2001-21 as per Rule 35 of A.P.M.M.C. Rules 1966.Further it is stated that, regarding the question of actual owner's or pattadars of the land this department is not aware the lease was granted basing on the NOC issued by the Revenue Department only. Further the status of ownership which recorded in Adangal or other related documents are maintained by the Revenue Department and they are the custodian's, of the records the patta rights were issued by Revenue

Department. Hence, the Revenue Department has to finalize who is the actual pattadar of the land. If any orders received either from the Hon'ble Courts or from the Revenue authorities regarding the right of pattadar or cancellation of lease, this department will take necessary action as per the orders.

It is further stated that, at present the 4th Respondent i.e. M/s Golden Granite has filed 1st Renewal of Quarry Lease application on 09-11-2020 and the 3rd Respondent i.e. Asst. Director of Mines & Geology, Ongole addressed a letter vide Lr.No. 5509/Q/2020, dated: 09-12-2020 to the District Collector, Prakasam District and Lr.No. 5509/Q/2020, dated: 09-12-2020 to the Tahsildar, Chimakurthy Mandal has requested that, to issue No Objection Certificate a fresh, for process the renewal application and to curtail further legal complications. As the Tahsildar, Chimakurthy Mandal vide L.Dis.B/165/2000, dated: 18-03-2000 has issued No Objection Certificate for grant of Black Galaxy Granite quarry lease in Sy.No. 55/6 of R.L.Puram (V), Chimakurthy (M) over an extent of 6.68 Acres in favour of 4th Respondent for a period of 15 years only which is elapsed and also suffered so many legal infirmities.

It is further stated that, the 4th Respondent has filed WP No. 14369 of 2021 before the Hon'ble High Court of A.P., upon non-processing of the 1st Renewal of Quarry Lease Application filed by the 4th Respondent in turn, the Hon'ble High Court of A.P. has disposed of the said writ petition directing the respondents No.1 and 2 to consider the quarry lease renewal application dated 09.11.2020 filed by the petitioner and after affording a personal hearing

to all concerned. It is further stated that, one Sri Thati Veeranjanyulu has filed Writ Petition No.11970 of 2021 before the Hon'ble High Court of A.P. seeking to declare the action of the respondents in not disposing of the representation petition dated 16-12-2020 but sent on 17.12.2020 through register post got submitted and also seeking to declare that the 7th respondent namely M/s.Golden Granites, R.L.Puram is not entitled to obtain No Objection Certificate for mining from the respondents No.2 to 4 in respect of the land to an extent of Ac.2.00cents out Ac.6.78cents situated in Sy.No.55/6 of R.L. Puram Village as their title is in dispute being illegal arbitrary. The same was disposed of vide order dated 25-06-2021 directing the respondents to dispose of the representation of the Petitioner dated 16-12-2020 in accordance with Law. Accordingly, in pursuance of the same, the Collector and District Magistrate, Prakasam has issued order vide Prods. Re.No. E1/41/2021, dated: 12-10-2021 and stated that, after appearance of the Petitioners and Respondents before the District Collector on 17-09-2021, 29-09-2021 & 04-10-2021, and prayers and argument put forward by the petitioner in its petition dated: 16-12-2020 and examined and adjudicated multiple times by the competent Hon'ble Civil Courts and Hon'ble High Court and Hon'ble Supreme Court. Further the issuance regarding preparation of ROR records, applicability of the A.P. Records of Rights in Land & Pattadar Pass Book Act & its rules 1989 regarding scheduled property, entries in IA, 1B records etc., are governed under the A.P. Records of Rights in Land & Pattadar Pass Book Act and these aspects are also examined and disposed

by the competent authority. Further, the District Collector find that, no reason what so ever, under the prevailing Acts/rules in vogue, to pass any order which are the subject matter in a Civil suit and also in a Revision Petition under A.P. Records of Rights in land & Pattadar Pass Book Act. Further also find that, it appropriate to dispose this Petition directing the petitioner to agitate on the issues in front of the competent authorities at the appropriate forum. Further the District Collector also stated that, the subject matter of Mining NOC is governed by the mining policy under G.O.Ms. No. 163 Mines Industries & Commerce (Mines-II) Dept., dated:16.11.2017. The petitioner may seek relief at the appropriate forum under the provision of this policy in G.O.Ms.No. 163, dt: 16.11.2017.

While the things stood thus, the Collector and District Magistrate, Prakasam District, Ongole vide Rc.E1/41/2021, dated:12-10-2021 has informed this office that, Sri Guda Anjaneyulu and Guda Subramanyam have filed W.P.No. 25806/2001 and M/s Ramatheertham Granites represented by A.V. Ramanaiah who is behind all civil suits filed W.P.No. 24889/2001 seeking declaration of quarry license dated: 12-11-2001 in favour of M/s Golden granites is arbitrary and illegal, both WPs No.24899/2001 and 25806/2001 are dismissed by the Hon'ble High Court of A.P. on 06-02-2002 and upheld the quarry lease dated: 12.11.2001. While so, pursuant to the orders of the Hon'ble High Court in W.A.No. 7303/1993, the District Collector ordered for cancelling of the NOC issued by the MRO resulted in granting of quarry lease to M/s Golden Granites. Further, M/s Golden Granites filed two W.P. No.

21075/2002 and 21076/2002 seeking declaration of orders of the District Collector as illegal, and Hon'ble High Court allowed both WIPs No.21075/2002 and 21076/2002, upholding the NOCs granted to M/s Golden Granites mainly based on the civil suits proceedings and the orders of the Supreme Court, upholding the right, and possession of C. Sulochana and Mandava Rambabu for measuring an extent of Ac.6-78 cents in Sy.No.55/6 of R.L.Puram Village. This order of the Hon'ble Court was never challenged. Hence, the Mining License of the Golden Granites is in force. Further, the Collector and District Magistrate, Prakasam District, Ongole has also informed that as per para 8(xvi) in G.O.Ms.No.163, Industries & Commerce (Mines-II) Department, dated: 16-11-2017, no fresh NOC is required for the renewal of lease and directed this office to examine and take appropriate action as per rules inforce. In view of the above circumstances, prayed to dismiss the writ petitions.

11. The counter affidavit has been filed respondent No.4 in WP No.30796 of 2014. While reiterating the averments made in the petition, denied the allegations made in the petitions. It is stated that the writ petitioner i.e. B.A.S. Granites filed a suit, O.S.No. 224/2006 on the file of the Senior Civil Judge, Ongole, for a declaration of its title of the property over an extent of Ac.3.36 cents in Sy.No.55/6 of R.L. Puram Village, Cheemakurthy Mandal, Prakasam District, and the said suit is coming up for trial. Unless it establishes its title over the property, it cannot question the quarry lease granted in favour of the 4th respondent. It is also relevant to state here that the petitioner herein

i.e. B.A.S. Granites filed implead petition WAMP No. 998/2007 in WA No. 307/2002 for its impleadment as the appellant in the place of M/s. Ramatheertham Granites. It is stated that M/s. Ramatheertham Granites filed as many as four suits before the trial Court and all the suits were dismissed. The said suits are pertaining to the land in dispute and the validity of the quarry lease granted in favour of the 4th respondent. Further, M/s. Ramatheertham Granites filed OS No. 13/2003 on the file of the I Additional District Judge, Ongole, on 01/05/2003 for declaration of title and other reliefs, which includes the cancellation of the sale deed No. 31/1992, dated 20/01/1992. During the pendency of the above suit, the petitioner in the writ petition i.e. M/s. B.A.S. Granites filed I.A.No. 212/2004 under Order 1 Rule 10 of CPC in the above suit OS No. 13/2003 to implead itself as the 2nd plaintiff on the ground that M/s. B.A.S. Granites entered into registered partnership deed dated 26/05/2003 with the partners of M/s. Ramatheertham Granites and Sri AV Ramanaiah the Managing Partner of M/s. Ramatheertham Granites is acting against their interest and hence they wanted to come on record. The said IA No. 212/2004 as well as the suit OS No. 13/2003 were dismissed by the trial court. Neither M/s Ramatheertham Granites nor MK BAS.Granites questioned the above decree and judgment and the decree and judgment has become final. Now the petitioner cannot question the rights over the disputed land and the quarry lease granted in favour of the 4th respondent.

It denied the allegation that one Telekepalli Pedakrishna was the owner of Ac. 9.85 cents in Sy. No.55/6, R.L. Puram. The so-called sale deed in

favour of the writ petitioner is speculative obtained only to blackmail and harass the 4th respondent. It is a fact that the said Firm applied for prospecting licence in respect of Ac. 6.78 cents in Sy.No.55/6 on 25/05/2000. It is false to state that the Mandal Revenue Officer, Cheemakurthy, issued NOC on 18/03/2000 basing on the prospecting licence. Further, the 4th respondent is not a party to the writ petition No. 7303/1993. It is further stated that the NOC granted by the Mandal Revenue Officer on 18/03/2000 was unsuccessfully questioned by one of the vendors of the writ petitioner in this Hon'ble Court. Further it is also denied the allegation that 4th respondent Firm was constituted on 25/03/2000 and could not have applied for NOC in the year 1999. It was formed in 1999 and it was registered on 25/03/2000. It is stated that the partners of the firm entered into partnership in the year 1999 and applied for quarry lease vide its quarry lease application dated 18/02/1999 itself and on the basis of the said application, the Mandal Revenue Officer, Cheemakurthy, granted NOC on 18/03/2000. It is a fact that quarry lease application was rejected by 25/02/1999. they have not challenged it in view of the subsequent changes in the law and in view of the 4th respondent's filing the application for prospecting licence dated 25/02/2000.

It is further stated that there is no such law that once the quarry lease application dated 25/02/1999 is rejected, the NOC granted in that connection will also lose its relevancy and the same cannot be considered once again for the subsequent application for prospecting licence. NOC granted by the Mandal Revenue Officer is only with regard to classification and availability of

the land for the quarry purpose and the Government has no objection for granting quarry lease over the land. Once a NOC is issued for the particular land by the Mandal Revenue Officer, it holds good for any person or persons applying for quarry lease over the land. The classification and availability will not change from applicant to applicant or from time to time. The revision filed by the writ petitioner is barred by time and entertaining such revision by the Government itself is one without jurisdiction and the Government ought to have dismissed the revision of the writ petitioner in limine.

It is further stated that the 1st respondent having noticed that the writ petitioner purchased the land in question much after the grant of quarry lease and admittedly the writ petitioner filed O.S.No. 224/2006, on the file of the Additional Senior Civil Judge, Ongole, for declaration of his rights over the land and the same is pending for disposal and having noticed that the Hon'ble Supreme Court also did not interfere with the quarrying operations of the 4th respondent, thought it fit that the balance of convenience is in favour of the 4th respondent to continue the lease and correctly dismissed the revision filed by the petitioner. Therefore, there is no illegality or irregularity in the order of the 1st respondent in dismissing the revision of the petitioner. I state that the right of the vendor of the 4th respondent was denied by the trial court in O.S.No. 158/1992 and that has become final. It is stated that the writ petitioner did not make out any ground to suspend the quarry operations of the 4th respondent at this stage. The writ petitioner has no title to or possession of the land. The title to the land in favour of this respondent is found by the

trial Court, this Hon'ble Court and the Hon'ble Supreme Court. For all the aforesaid reasons, the 4th respondent prays that this Hon'ble Court may be pleased to dismiss the Writ Petition.

12. Heard Sri I. Koti Reddy, learned counsel for appearing the petitioner in WP No.30796 and 32252 of 2014; Sri K.S Murthy, learned Senior counsel representing Sri Ponnada Sree Vyas, learned counsel appearing for the petitioner in WP No.31072 of 2022; Sri P. Rama Krishna, learned Government Pleader for Mines and Geology and Mr B. Adinarayana Rao, learned Senior Counsel representing Sri P. Kamlakar, learned counsel appearing for the respondents.

13. On hearing, Sri I. Koti Reddy, learned counsel for the petitioner in WP Nos.30796 and 32252 of 2014 while reiterating the averments made in the petition contended that the impugned order passed by the 1st respondent is vitiated on factual as well as legal grounds. He submits that the 1st respondent omitted to decide all the issues raised before it except narrating various facts that have taken place from the year 2000 till now and ultimately concluded that the balance of convenience lies in favour of the 4th respondent and hence the Revision Petition was dismissed. He further submits that the 1st respondent failed to bear in mind its obligation to go into the issues raised by the petitioner and to decide them basing on the material on record in conjunction with the Rule position. None of the findings given in the W.P.Nos.21075, 21076 of 2002 or W.P.Nos.25860 and 24899 of 2001 will have any binding force on the 1st respondent by virtue of the orders passed in

W.A.No.307 of 2007 dated 26.6.2007 and the WAMP NO.988 of 2007 dated 21.8.2007. He further submits that the 1st respondent also failed to see that the title dispute between the parties is pending in a suit in O.S.No.224/2006 on the file of Additional Senior Civil Judge, Ongole and the respondent cannot claim its title over the subject land vis-a-vis the petitioner herein basing on the judgment reported in **Sajana Granites and M.SrinivasaRao**¹. Wherein, the appellant therein sought for a declaration of title and for injunction in respect of 5.73 acres of land in Sy.No.55/6 of R.L.Puram Village against M.Srinivasa Rao and others and lost it. The first appeal was dismissed by this Hon'ble Court in the above-mentioned judgment and the same was affirmed by the Apex Court. Therefore, the rights of the 4th respondent herein, represented by M.Srinivasa Rao, were no way decided in that suit since the plaintiff failed to establish its rights over the said land. In any case, neither the petitioner herein nor its vendor were parties to that litigation and hence the judgment cannot have any binding force on this petitioner. He submits that, in the light of the above, the prospecting license and quarry lease granted in favour of the 4th respondent are clearly illegal and are liable to be cancelled.

14. Learned counsel further submits that the 4th respondent ought not to have been granted with such permissions, even assuming that its applications were valid and the NOC was valid, in the light of the fact that two of its partners happen to be the wife and daughter in law of the then Deputy Director of Mines, Guntur under whose jurisdiction the area of the quarry lease

¹2002(1) ALT page 466

falls. He further submits that the 4th respondent was entered into a rising contract cum sublease with Smt.Sidda Laxm iPadmavathi W/o.S.Raghava Rao and the said Sidda Raghava Rao is the present Minister for Transport and R&B, Government of A.P and the same has influenced the decision making of the 1strespondent in disposing of the Revision Petition. Therefore, the impugned order of the 1strespondent is vitiated on factual as well as legal grounds and the quarry lease granted in favour of the 4th respondent is liable to be quashed.

15. Whereas, Sri K.S. Murthy, learned Senior Counsel appearing for the petitioner in WP No.31072 of 2022 argued that the 3rd respondent addressed a letter dated 9.12.2020 to the 4th respondent/District Collector requesting to issue NOC by conducting an enquiry as per orders of this Court in WP No.7303 of 1993 dated 16.2.2020. The 4threspondent/ District Collector formed a 3-man committee on 06/04/2021 for conducting a field inspection and for submission of report for further action as per the directions. Accordingly, the 03rd respondent/ADMG addressed a letter to the 04th respondent/ District Collector dated 09/12/2020 to consider the dispute. He submits that as there was discrepancy in respect of NOC issued by the MRO, the 03rd respondent/ ADMG addressed a letter to the 04th respondent/ District Collector. The 04th respondent/ District Collector without properly considering the letter addressed to him, addressed a reply letter dated 12/10/2021 stating that, no NOC is required for renewal of lease. This was utter violation to the orders passed by this Hon'ble Court in W.P.No7303 of 1993. He submits that

the 02nd respondent/ DMG again addressed a letter dated 04/08/2022 to the 03rd respondent/District Collector to consider the aspect of issuance NOC and other title disputes and also a report was called for. Without awaiting for the reply by the 03rd respondent/ District Collector, the 2nd respondent/ DMG renewed the lease on 17/08/2022 and it was ante dated. He submits that the action of the 2nd respondent/ DMG in renewing the lease without considering the legality of NOC issued by the MRO in the year 2000 as it is in violation to the orders passed by this Hon'ble court in W.P.No.7303 of 1993 is highly illegal and arbitrary. Hence, the present Writ petition is liable to be allowed.

16. *Per contra*, Sri P. Rama Krishna, learned Government Pleader for Mines and Geology appearing for the official respondents while reiterating the contents made in the counters, submits that, a detailed report to take further action and the committee has conducted joint inspection on 31-08-2021 and submitted its findings stating that the active mining operations are being conducted by M/s Golden Granites. Basing on the report of the Revenue Divisional Officer, Ongole and record available in Collectorate, the then Collector, Prakasam vide his letter, dated: 12-10-2021. has informed the Asst. Director, Mines Geology, Ongole that no fresh NOC is required for the renewal of leases of mining and directed to take appropriate action as per rules in force. Therefore, it is clearly understood that the then Collector has taken a decision in accordance with the law/rules/ procedure for recommending for renewal of lease for M/s Golden Granites for carrying out their mining operations in Sy.No. 55/6 in an extent of Ac. 6-78 cents of R.L.Puram village

of Chimakurthy Mandal. He further submits that in pursuance of the order of the Hon'ble High Court in W.P. No. 7303 of 1993, the District Collector, ordered for cancelling of the NOC issued by the MRO, Chimakurthy resulted granting of quarry lease to M/s Golden Granites. M/s. Golden Granites filed W.P. NO. 2105 of 2022 and WP. No. 21076 of 2002 seeking declaration of orders of the Collector as illegal and the Hon'ble High Court allowed both WPs upholding the NOCs granted to M/s Golden Granites mainly based on the civil suits proceedings and the orders of the Supreme Court, upholding the right, and possession of Smt. C. Sulochana and Sri Mandava Rambabu for measuring and extent of Ac. 6-78 cents in Sy.No.55/6 of R.L. Puram village and permitting M/s Golden Granites to conduct quarry operation by maintaining accounts. Questioning these judgments, M/s BAS Granites filed Writ Appeals (W.A. No. 988/2007 and WA. No. 6685/2007) with a delay petitions. The Division Bench of Hon'ble High Court dismissed both the leave petitions as well as delay petitions. Hence NOC issued in favour of M/s Golden Granites is in force. In view of the above circumstances, learned Government Pleader opposed for allowing the writ petitions and prayed to dismiss the same.

17. On the other hand, Sri B. Adinarayana Rao, learned Senior counsel appearing for the unofficial respondents, while denying the allegations made in the petitions reiterated the contents made in the counter affidavit filed by the 7th respondent. He argued that, in the counter, it is clearly stated that, challenging the Prospecting License as well as the Quarry Lease granted in

favour of the 7th Respondent, M/s.Ramatheertham Granites, represented by Managing Director Sri Ananthabotla Venkataramaiah filed Writ Petition No.24899/2001, who is none other than one of the Vendor of the Writ Petitioner and another Writ Petition No.25806/2001 was came to be filed by one Guda Anjeneyulu along with his brother Sri Guda Subramanyam challenging the grant of Prospecting License as well as the Quarry Lease in favour of the 7th Respondent. It is stated that in both the Writ Petitions they also challenged the NOC issued by the MRO on 18.03.2000 and that both the Writ Petitions were dismissed by the Hon'ble High Court by a Common Order, dated 06.02.2002. He submits that the Writ Petitioner as per his own statement that he has purchased the land in Sy.No.55/6 on 17.12.2005, over in which a Quarry Lease is already granted and quarry operation is going on. It is also very relevant to state here that his so called vendor is not even filed any Quarry Lease Application for grant of Quarry Lease in Sy.No.55/6 and hence he has no locus standi to challenge neither the Quarry Lease nor the renewal of the Quarry Lease. He further submits that as per the averment and as per the Sale Deed, dated 17.12.2005, the Writ Petitioner purchased the land Ac.3.30 cents in Sy.No.55/6 in R.L. Puram Village from M/s.Ramatheertham Granites. Further, M/s.Ramatheertham Granites filed another suit O.S.No.13/2003 on the file of the I Additional District Judge, Ongole on 01.05.2003 for a declaration of title and other reliefs which includes the cancellation of Sale Deed No.31/1992, dated 20.01.1992 of Sri M.Srinivasa Rao who is the vendor of the 7th respondent. It is also relevant to

state that the Writ Petitioner herein i.e., M/s.BAS Granites filed I.A.No.212/2004 under Order 1 Rule 10 of CPC in the above said Suit O.S.No.13/2003 to implead itself as the 2nd Plaintiff in the Suit on the ground that M/s.BAS Granites entered into Registered Partnership Deed with the Partners of M/s.Ramatheertham Granites, dated 26.05.2003 and Sri A.V. Ramanaiah, the Managing Director is acting against their interest and hence they want to come on record to protect their interest. He further submits that the said I.A.No.212/2002 and the O.S.No.13/2003 was dismissed by the Trial Court by the Judgement and Decree, dated 24.01.2014. Aggrieved by the same, neither M/s.Ramatheertham Granites nor M/s.BAS Granites field any appeal and the said Decree and the Judgment has become final.

18. Learned Senior Counsel Sri B. Adinarayana Rao further submitted that the Writ Petitioner herein filed a Suit O.S.No.224/2006 on the file of the Senior Civil Judge, Ongole for a partition and the Writ Petitioner not taking any steps for the disposal of the said Suit, that makes clear intention of the Writ Petitioner that the entire litigation is going on by the Writ petitioner. Further, it is also relevant to state here that the DMG, even before passing the Renewal Order, dated 17.08.2022, conducted a personal hearing of all the parties including the 7th Respondent and the Writ Petitioner, as per the direction of this Hon'ble High Court in Writ Petition No.14369/2021, dated 16.11.2021, and the Writ Petitioner raised all the grounds raised in this Writ Petition and the DMG, by his speaking order rejected all the grounds raised by the Writ Petitioner in his Proceedings No.7022/09/2021, dated 04.01.2022.

19. To support his contentions, Sri B. Adinarayana Rao, learned Senior Counsel has placed reliance on a decision of Hon'ble Supreme Court reported in **State of Gujarat and others versus Nirmalaben S. Mehta and another**² wherein, the Apex Court held that :

“Both the Revisional Authority as well as the High Court have erred in coming to the conclusion that a renewal of lease of the mining area in question is not a fresh grant and have wrongly concluded that at the time of grant of renewal of lease of the area, the State Government is not empowered to impose or enforce condition inter-alia, of setting up of a captive plant by the respondents.

...

Further, the High Court has erred in not noticing the well settled legal proposition as [laid down by](#) this Court in Gajraj Singh's case supra, on the point that the grant of renewal of the lease in respect of the mining area in question is a fresh grant. The relevant paras read thus:

“37. In [Provash Chandra Dalui v. Bisawanath Banerjee](#) this Court drew the distinction between the meaning of the words extension and renewal. It was held that:

“...a distinction between 'extension' and 'renewal' is chiefly that in the case of renewal, a new lease is required while in the case of extension the same lease continues in force during additional period by the performance of stipulated act. In other words, the word 'extension' when used in its proper and usual sense in connection with a lease, means prolongation of the lease.”

...

The aforesaid important legal aspect of the matter has not been taken note of by the High Court as well as the Revisional Authority. Therefore, the impugned order dated 13.12.2011 passed by the High Court confirming the order dated 27.08.2009 passed by the Revisional Authority being contrary to the approval given by the central government vide letter dated 16.01.1980 is not only erroneous but also suffer from error in law. For the reasons stated supra the impugned orders of both the High Court as well as the Revisional Authority are liable to be set aside as they are vitiated in law.”

20. Learned Senior Counsel Sri B. Adinarayana Rao, while relying upon the above decision, submits that, when the Writ Petitioner challenges the grant of Quarry Lease, dated 12.11.2001, in the previous Proceedings before this Hon'ble High Court, his Counsel in the W.A.No.307/2007, categorically submitted that to challenge the grant of Quarry Lease, the effective remedy is

²(2016) 9 Supreme Court Cases 240

statutory revision under Rule 35-A of the APMMC Rules, 1966 and now the Writ Petitioner without availing the said effective statutory remedy under Rule 35-A, directly came to this Hon'ble High Court. Therefore, learned Senior Counsel submits that the Writ Petitioners cannot take two different stands in the same matter, and hence the writ petitions are not maintainable.

21. Perused the material available on record.

22. As seen from the order of this Court in WP No.7303 of 1993, the petitioners therein assert that, their father Guda Venkataramaiah and six others are the joint owners of Ac.300 in the said two Sy. Nos, and that their father has a 1/12th share in the said lands. subsequently Sy. No.55 was divided into various Sy. Nos.55/1 to 55/6 and that the extent of Sy.No.55/4 is Ac.39.56 cts., and that of sy. No.55/6 is ac.45.19 cls, and that these extents belong to the petitioners on the death of their father in the year 1977. While so. it is urged, a variety of granite known as "Galaxy Granite was located in these lands and as a consequence the cost of the land has increased and as a result numerous claims are being made and disputes raised as to the ownership of these lasts. In these circumstances the MRO has issued No Objection Certificates on the basis of which grant of mining lease would be considered, without proper verification of the revenue records, without conducting an enquiry and without ascertaining the true title holders to the lands in question.

23. It is observed that after the institution of the writ petition various private parties have been impleaded as respondents and while some claim that they are entitled to be granted mining lease consequent on issuance of no objection certificates since they are the purchasers of the lands, other party respondents state that issuance of no objection certificates and consequently 'mining leases without proper verification of the classification and title to the lands is productive of complex litigation and consequently of public mischief. In view of the above circumstances, the said writ petition was disposed of directing the 1st respondent therein to conduct enquiries and ascertain the facts from the Revenue records or other documents that any purchasers/representation is may make available and only thereafter issue no objections certificates in respect of Sy. No.s55/1 to 55/6 of R.L. Puram village. Cheemakurthy Mandal, Prakasham District. It was also made clear that under the guise of considering the issuance of no objections certificate the 1st respondent shall not be entitled to adjudicate any disputed questions of title which are is appropriately adjudicated by jurisdictional civil court.

24. Thereafter, the Rama Teertham Granites and Guda Anjaneyulu have filed petitions before the District Collector questioning the grant of NOC by the MRO on the ground that the same were against the orders of this Court passed in WPNo. 7303 of 1993 dated 16.2.2000. The said petitions were allowed by the District collector on 9.10.2002.. The 4threspodnetn M/s Golden Granites have questioned the above order, filed WP No.21075 and 21076 of 2002 and the same were also allowed. Against the order in one of

those writ petitions in WP No.21075 of 2002 the petitioner herein filed an appeal and it was also dismissed at the SR stage itself by a learned Division Bench of this Court observing that the reasons recorded in the order passed in WA No.307/2007.

25. On a perusal of the order in WA No.307/2007, wherein a learned Division Bench of this Court, has disposed of the said appeal, *while considering the respective submissions and are convinced that the order under challenge is liable to be modified by declaring that the observations made by the learned Single Judge on the merits of the order, which was subject matter of challenge in the writ petition shall not be read against the appellant and the same shall not influence adjudication of the matter by the competent authority. With the above observation, the appeal is dismissed leaving appellant free to avail the statutory remedy under Rule 35(A).*

26. As seen from the impugned Memo No.25528/M.I(1)/2001-21, dated 27.08.2014, wherein it is observed that :

The Revision Authority Heard the case on 16.08.2014 and 19.08.2014 the written arguments presented in the Groups of appeal and the oral arguments presented by the Counsel of parties present are taken into cognizance and observed that M/s. Golden granites Initially filed a Quarry lease application for Black Galaxy Granite In Sy.No.55/6 of R.L.Puram (V) Cheemakurthy (M) of Prakasham Dist., over an extent of 6.79 Acs which was received by the ADM&G, Ongole on 25.02.1999. On referring the said application of Issuance of NOC, the MRO, Chimakurthy issued NOC over the subject area vide his letter, D.DIsNo.B 266/2000, dated 18.03.2000 In favour of M/s. Golden Granites. However the Quarry Lease application of M/s. Golden Granites was rejected by the DMG vide Proc. No.7946/R3(2)/99, dated 22.08/2001.

27. It is also observed from the impugned Memo that, M/s. Golden Granites have subsequently filed an application for Prospecting License over

the subject lease area on 25.05.2000. Pursuant to the said application, the ADM&G, Ongole after survey and inspection of the applied area and based on the NOC Issued earlier on 18.03.2000 by the MRO, Cheemakurthy for the same land to M/s. Golden Granites, who submitted proposal for grant of PL to the DMG on 13.06.2000. Later the applicants have submitted the Consent of the Pattadars over the area together with copies of Pattadar Pass books for the use of the land for Mining purpose. Based on the proposal of the ADM&G, Ongole for grant of Prospecting License (PL) the DM&G vide Procs.No.17752/R3(2), dated 29.08.2001 granted a PL for period of (2) years over the subject area and the PL was in force upto 30.08.2003. M/s. Golden Granite subsequently on 12.10.2001 have filed an application for conversion of PL into Quarry Lease.. Pursuant to submission of grant of proposals by the ADM&G, Ongole on 19.10.2001, the DMG has granted Quarry Lease over the subject lease area for a period of 20 years vide his Procs.No.34354/R3(2)/2001, dated 12.11.2001 in favour of M/s. Golden Granites and the lease would be in force upto 15.11.2021. Aggrieved by the above orders of the DMG M/s. Sanjana Granites has brought this matter to the Hon'ble Supreme Court by way of SLP. The Hon'ble Supreme Court made an order in SLP No.4448/4451/2002, Dt.04.03.2002 filed by M/s. Sanjana Granites Inter alia stating that:

"we are not Inclined to stay the order under challenge or restrain the respondents from quarrying. However we direct the respondents to maintain the proper accounts of quarrying and sale of Granite."

28. It is also observed that part of the subject lease area was purchased by the petitioner Sri. S.Suresh babu on 21.07.2003 and the implead Petitioner M/S. BAS Granites, Kurnool have purchased another part on 17.12.2005, whereas the PL was granted on 29.08.2001 and the QL was granted on 12.11.2001 in favour of M/S. Golden Granites.

29. Further, this Court is observed that the ownership of the land is the subject matter to be decided by the appropriate Civil Court and the Department of Mines & Geology has no jurisdiction or competency to take any decision on the ownership rights of the land and the Mines Dept., is concerned with Grant of leases subject to fulfillment of all conditions laid down in the Act/ Rules by the applicant. Moreover, either M/s. BAS Granites or Sri D.Suresh babu or Sri G.Anjaneyulu have not filed any quarry lease or PL application on the subject lease area.

30. As seen from the certified copies of the Q.L. register of the Asst. Director of Mines & Geology, Ongole, obtained by the Revision petitioner under RTI Act M/s. Golden Granites filed an application for grant of Quarry lease for the said land on 18.02.1999. The Advocate appeared on behalf of the M/s Golden Granite has pleaded that their firm was constituted on 18.02.1999 and the said firm applied for grant of Quarry lease on 25.02.1999 and on the basis of the said application dated 25.02.1999 the M.R.O. Cheemakurthy, granted NOC on 18.03.2000. He further submitted that the firm was constituted on 18.02.1999 and registered on 25.05.2000 and hence

there is no illegality and irregularity in granting NOC by the MRO, Cheemakurthy in favour their firm.

31. Later, after taking the material made available into consideration and the grounds of the Petitioners as explained above and the arguments put forth by the Counsel of the Petitioners during the hearing in specific, the Revision Authority observed that the balance of convenience lies with the QL holders M/S. Golden Granites and therefore, the revision application filed by M/S. BAS Granites and others was dismissed under Rule 35A of APMMC Rules, 1966.

32. In so far as the proceedings of the Collector and District Magistrate, Prakasam District vide RcNo.E1/41/2021, dated 12.10.2021, it is the contention of the learned Senior counsel for the 7th respondent that *“the submissions made by the petitioner and counter submitted by the respondents further revealed that the litigation over the scheduled properties is going on for many years. It is noticed that OS. No. 158/92 civil suit in the court of Additional Senior Civil Judge is dismissed in favour of Mandava Rambabu, C. Sulochana. Further High Court Civil appeal 1089/2000 dismissed in favour of Nandava Rambabu and C Sulochana. The litigation continued in Supreme Court in the form of SLP and Civil appeal and all were disposed in the favour of Golden Granites.”*

33. It is also observed from the proceedings No.7022/D9/2021, dated 4.01.2022 of the Director of Mines and Geology, Ibrahimpatnam, wherein it is noticed that:

“...Further, the last contention of the Objection Petitioners is that the issuance of Pattadar Passbooks and the title deeds to the partners of M/s Golden Granites is contrary to the A.P. Rights In Lands and Pattadar Passbook Act, 1971 and they have no right and title over the subject land. On the other hand, the Counsel for M/s Golden Granites contended that one of the vendor of the Objection Petitioner have already challenged the same issue, i.e., grant of Pattadar Passbook and Title Deeds in favour of the partners of M/s Golden Granites by filing an Statutory Appeal before the Revenue Divisional Officer, Ongole and the Learned RDO, Ongole dismissed the said Appeal by his Order In Rc.No.1644/01(D), dated 25.06.2005 and the said order has become final and the Director of Mines and Geology has no jurisdiction to go into that aspect and the Counsel also placed a copy of the said Appellate Order of the RDO before it. I have gone through the Order and I agreed with the contention of the Learned Counsel for M/s Golden Granites. I have noticed that the Trial Court findings in D.S.No.158/1992 and the Trial Court categorically holds that the partners of M/s Golden Granites are the Pattadars. Hence this last contention of the Objection Petitioners is also hereby rejected.”

34. Further, as seen from material on record, it is observed that, as reported by the RDO, Ongole/Tahsildar, Chimakurthy, it is understood that so many court cases/legal hurdles are involved in this issue. Moreover, the earlier decisions taken by the legal forums as well as concerned revenue authorities, are in favour of M/s Golden Granites. At this stage, it may not be possible to decide the ownership/title of the land in Sy No.55/4B.

35. Further, the O.S. No. 224/2006 in respect of partition deed pertaining to Sy.No. 55/6 of R.L. Puram villages, filed by M/s BAS Granites is still pending before the Hon'ble Addl. Senior Civil Judge, Ongole. There is no jurisdiction to Revenue department to interfere to decide the title of the patta lands under the prevailing Acts/Rules in vogue. As the subject land is already sub judice and interfering with the title while a partition suit is pending, it is

barred by the Rule 9 (c) (ii) of A.P. Rights in Land and Pattadar Pass Books Rules 1989.

36. In so far as orders dated 4.8.2022 vide Lr No.5987754/D9/2022 of the Department of Mines and Geology, Ibrahimpatnam is concerned, wherein it is noticed that:

“The Quarry lease holder continued operations till the expiry of the quarry lease and the owners, M/s Golden Granite, Ongole has applied renewal of quarry lease in the year, 2020. The ADM&G, Ongole has addressed a letter to the District Collector, Ongole for issue of NOC, who inturn constituted a three member committee to resolve the issue of ownership in the said Sy.No.55/6 vide District Collector Proceedings in Rc.E1-41/2021, Date: 06-04-2021 as per the directions of the AP High Court in WA No.7303, Date:16-02-2000. Subsequently, the District Collector changed his opinion and issued fresh proceedings for renewal of the mining lease based on the old NOC Issued by the Tahsildar, Chimakurthy dated: 18-03-1 2000.

Further, he has requested the Hon'ble Chief Minister to instruct the District Collector, Ongole for issuance of the NOC by himself as per the directions to the AP High court as there is a dispute over the ownership of the land in Sy.No.55/6. Further, also informed that the Sy.No.55/48 has an extent of 39.56 Acs, of pattaland in RL Puram Village of Chimakurthy: Mandal and the share of M/s Telakepalli Pedda Krishnaiah is 7/12th in the said survey number as per the revenue records. In other words Telakepalli Pedda Krishnaiah has a ownership of 23.33 Acs, in Sy. No.55/4B. The successors of T.PeddaKruishnaiah have sold away land to an extent of 15.00 Acs, in Sy.No.55/4B to M/s B.A.S. Granites, Kurnool by registered sale deeds on 09-06-2010. The ownership of the said land is also in legal disputes with M/s Golden Granite and its associates.”

37. In view of the foregoing discussion, this Court observed that, the rights of the M/s Golden Granites were no way decided in the suit since the plaintiff failed to establish its rights over the said land. In any case, neither the petitioner herein nor its vendor were parties to that litigation. So, in the light of the above, the Prospecting Licence and quarry lease granted in favour of M/s Golden Granites are clearly illegal and are liable to be quashed. Therefore, this Court deems fit to allow the writ petitions.

38. Accordingly, WP Nos.30796 and 32252 of 2014 are allowed. The impugned order of the 1st respondent in Memo No.25528/M.I(1)/2001-2021 dated 27.8.2014 are hereby set aside.

39. In so far as WP No.31072 of 2022 is concerned, while declaring the action of the 4th respondent in issuing Rc No.E1/41/2021, dated 12.10.2021 and consequential order of 2nd respondent/DMG proceedings No.742/D9/2022, dated 17.08.2022 renewing the mining lease in favour of 7th respondent i.e., M/s Golden Granites in Sy.No55/6 R.L. Puram Village, Chimakurthy Mandal, Prakasam District, as illegal and arbitrary.

40. Therefore, WP no.31072 of 2022 is also Allowed directing the respondent authorities to initiate necessary action against the 7th respondent- M/s Golden Granites for misleading the Government in respect of mining activities in Sy No.556 of R.L Puram Village, Chimakurthy Mandal, Prakasam District and take appropriate steps in accordance with law/rules.

41. There shall be no order as to costs.

42. As a sequel, all the pending miscellaneous applications shall stand closed.

DR. K. MANMADHA RAO, J.

Date : 21-02-2025

Gvl

HON'BLE DR. JUSTICE K. MANMADHA RAO

WRIT PETITON Nos.30796, 32252 of 2014 and 31072 of 2022

Date : 21. 02.2025

Gvl