

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.18499 OF 2021

ORDER:

This petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“.... to issue a Writ of Mandamus, declaring impugned notice vide Rc.No.366/2021/B, dated 09.08.2021 issued by 2nd respondent proposing to cancel No Object Certificate granted in favor of the petitioner though 2nd respondent has become *functus officio* as orders passed in granting 'No Objection Certificate' cannot be reviewed or recalled, as illegal, arbitrary, without authority of law and consequently set aside the aforesaid impugned notice of 2nd respondent and pass such other order.”

2. It is the case of petitioner that she applied for grant of Quarry lease to extract colour granite for a period of 20 years and the land was purchased in the year 2009. The petitioner made an application for grant of 'No Objection Certificate' to 2nd respondent for obtaining mining lease in the aforesaid land and after conducting proper enquiry 'No Objection Certificate' was issued to the petitioner vide Proceedings in D.Dis.No.233/2021/CD, dated 15.06.2021. 2nd respondent issued impugned notice to the petitioner vide Rc.No.366/2021/B, dated 09.08.2021 basing on the false complaint lodged by her vendor's (GPA) vendor that the petitioner has created forged documents and acquired title and further states that a suit is pending in O.S.No.4/2015 and intend to cancel the 'No Objection Certificate' granted in favour of the petitioner.

3. The main contention of petitioner is that issuing of impugned notice by 2nd respondent is without jurisdiction as once 2nd respondent having exercised his jurisdiction and power to grant 'No Objection Certificate' to the petitioner which has become

final, the 2nd respondent had no authority to recall or cancel his own decision as it amounts to exercising excess jurisdiction and it becomes *functus officio* after issuance of 'No Objection Certificate' and requested to allow the writ petition setting aside the impugned notice.

4. During hearing, Sri K.Rathangapani Reddy, learned counsel for the petitioner reiterated the contentions urged in the writ petition, while drawing the attention of this Court to the contents of notice impugned in the writ petition and requested to set aside the same, while declaring as illegal and arbitrary.

5. Learned Assistant Government Pleader for Revenue fairly conceded that the petitioner was called upon to appear before the authorities and no order is passed. Therefore, he agreed to pass appropriate order, in accordance with law.

6. As seen from the material on record, the petitioner allegedly purchased the property under registered sale deed, whereas learned Assistant Government Pleader for Revenue contended that when the petitioner was called upon to appear before the authorities only as a part of enquiry, based on the representations submitted by the General Power of Attorney of the vendor and it is not for cancellation of 'No Objection Certificate'. Therefore, it is clear that when the Tahsildar is competent to issue No Objection Certificate, equally he is entitled to cancel the same by following necessary procedure and therefore the Tahsildar cannot issue notice without any authority. Hence, the Tahsildar has no jurisdiction to conduct enquiry by issuing notice, is without any

subsistence. However, the respondents are directed to complete the enquiry considering all the objections raised by the petitioner affording opportunity of physical hearing before passing such an order, in accordance with law.

7. With the above direction, the writ petition is disposed of, at the stage of admission while setting aside the impugned notice declaring the same as illegal and arbitrary. No costs.

As a sequel miscellaneous application, pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date: 31.08.2021

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