

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.19522 OF 2011

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents. With the consent of both the parties, the Writ Petition is disposed of at the stage of admission.

The present Writ Petition is filed by the petitioner seeking issuance of writ of Mandamus declaring the action of the respondents in not refunding an amount of Rs.2,36,42,442/- paid by the petitioner in respect of land admeasuring 17,700 sq. yards bearing Municipal No.6-3-654/1 to 6-3-654/9 situated at Somajiguda, Hyderabad, as illegal and arbitrary and consequently direct the respondent to refund the said amount to the petitioner along with interest at 9% p.a. from 15.07.2009 till the date of payment.

The averments in the affidavit filed in support of the Writ Petition are as under :

The petitioner is the owner of building along with the land admeasuring 17,700 sq. yards bearing Municipal No.6-3-654/1 to 6-3-654/9 situated at Somajiguda, Hyderabad, having purchased the same from Navabharat Enterprises Limited under sale deed bearing

Doc.No.1643/1994 dt:16.05.1994 and has been in possession from that date. It is stated that as on the date of purchase, the land was not vacant within the meaning of Urban Land Ceiling Act, 1976 (ULC Act) as there was a building already in existence. When the petitioner came to know that the land was declared as surplus under proceedings No.F2/3435/1987 dt:16.09.2005, the petitioner applied for regularization of the surplus land to an extent of 14797 sq. meters along with a Demand Draft for Rs.1,49,40,000/- towards requisite regularization charges. Subsequently, a memo bearing No.F2/445/1534/SA/05 dated 13.12.2006 was issued by the second respondent intimating the petitioner that surplus land is 13134.69 sq. meters and requisite charges are Rs.2,36,42,442/- @ Rs.1,800/- per sq. meter. After adjustment of Rs.1,49,40,000/-, he paid the deficit amount of Rs.87,02,442/- vide DD dated 15.12.2006 under a covering letter dated 15.12.2006. The allegation of the petitioner is that even though repeated requests are made to the 2nd respondent to pass orders, his regularization application was not processed due to pendency of W.P.No.112 of 2007, filed by the vendor i.e., Navabharat Enterprises Limited challenging the order of the 2nd respondent dt:16.09.2005 in proceedings No. F2/3435/1987. The petitioner further submits that W.P.

No.112 of 2007 was allowed by order dated 24.03.2009 finding that the possession of the land to the extent of 42959.84 sq. meters (which includes the petitioner's land admeasuring 13134.69 sq. meters) was not taken over by the 2nd respondent and in view of the Repeal of ULC Act, adopted by the state legislature in the year 2008, the proceedings would stand abated and that the orders passed u/s.8(4) of the ULC Act is no longer covered by the ULC Act, 1976. It is stated that since the W.P. No.112 of 2007 was allowed and the land therein including the land purchased by the petitioner was held to be not covered by the provisions of the ULC Act, it was submitted that it is not necessary for the petitioner to get the land regularized. It is further alleged that the petitioner made several representations dated 15.07.2009, 17.02.2009, 29.04.2010, 07.07.2010 and 26.05.2011 to the respondents requesting to refund the amount of Rs.2,36,42,442/- paid towards regularization charges, but so far the respondents have not repaid the amount. Hence, the present Writ Petition came to be filed.

Though various grounds are raised in the Writ Petition, the learned counsel for the petitioner restricts his prayer seeking a direction to the respondents to pass orders in representations dated 15.07.2009, 17.02.2009, 29.04.2010, 07.07.2010 and 26.05.2011 at the earliest.

Learned Government Pleader submits that he has no objection for the same.

Without going into the merits of the case and in the circumstances stated above, the Writ Petition is disposed of directing both the respondents to dispose of the representations dated 15.07.2009, 17.02.2009, 29.04.2010, 07.07.2010 and 26.05.2011 within a period of six weeks from the date of receipt of the copy of this order, if the same are still pending with them. No order as to costs. As a sequel to it, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date: 21.08.2015

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