

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.23407 OF 2015

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ORDER:

Heard learned Senior Counsel for the petitioner and learned Government Pleader for Revenue.

Since learned Government Pleader for Revenue has already received instructions and a counter affidavit is filed, with consent of both sides, the Writ Petition itself is being disposed of by this order.

The petitioner claims that he is the absolute owner having purchased Acs.10.00 of land in Survey No.52/8 of Turkayamjal Village, Hayathnagar Mandal, Ranga Reddy District, under a registered sale deed, dated 08.08.2014, from Bandari Balamani. The said land was stated to have been assigned to Bandari Lingamaiah, husband of the petitioner's vendor under Rule 9 (G) of the Laoni Rules, 1950. The petitioner states that after death of Bandari Lingamaih, his wife and children sought 'No Objection Certificate' (NOC) from the District Collector, Ranga Reddy District, the 2nd respondent, and the Government of Andhra Pradesh under its Memo, dated 12.05.2014, directed the 2nd respondent to issue NOC in favour of petitioner's vendor. Consequently, the 2nd respondent issued NOC on 19.05.2014 and thereafter the petitioner has purchased the said land. Subsequently, on 06.06.2015, the Government issued the impugned memo, cancelling NOC granted to the petitioner's vendor on the ground that it was obtained on misrepresentation of facts. Questioning the said memo, the present Writ Petition is filed.

By order, dated 29.07.2015, while issuing notice before admission, this Court passed the following order:

"It is evident from the impugned order itself that no prior notice and

opportunity of hearing is given to the petitioner before cancelling the NOC dated 12.05.2014 in favour of the petitioner. Petitioner has also raised other contentions but to the extent of violation of principles of natural justice, as alleged, it is appropriate that the learned Government Pleader for Revenue, who takes notice for respondents, shall get instructions.

Any further proceedings in pursuance of the impugned order shall remain stayed for a period of four weeks. ...”

Learned Government Pleader has filed counter on behalf of the 2nd respondent giving various reasons as to under what circumstances the impugned memo came to be issued including the verification of the land by the Task Force on Land and noticing of fraud and misrepresentation in securing no objection from the Government by the petitioner’s vendor. In response to the petitioner’s contention that the impugned memo was issued without notice and without giving opportunity to him, the counter affidavit states that as the 2nd respondent, in fact, was directed by the Government, he issued a show cause notice, dated 12.07.2015, to the vendor of the petitioner as to why the NOC issued to her should not be cancelled. The 2nd respondent also addressed a letter to the Commissioner and Inspector General, Registration and Stamps, Andhra Pradesh, Hyderabad, on the same day requesting to cancel the registered Document No.10965 of 2014 of the petitioner. The rest of the averments in the counter affidavit support the order of cancellation.

It is, however, evident from the averments of the counter affidavit that the impugned memo, dated 06.06.2015, was issued without notice and without hearing the petitioner and, in fact, the show cause notice issued by the 2nd respondent and also directions of the Government are much later i.e., on 12.07.2015. The same do not even satisfy the requirement of post-decisional hearing and it is apparent that principles of natural justice are clearly violated. Apart from that, the initial no objection was issued by the 2nd respondent on the directions of the Government. Therefore, any action sought to be taken against the said NOC has to be initiated by the Government only and not by the District Collector.

In view of the above, the impugned memo is set aside. This, however, will not preclude the Government, the 1st respondent, from initiating appropriate

proceedings, if it desires to initiate, against the petitioner or their vendor with respect to the said NOC. However, any action, which is proposed to be taken, shall be taken after following due process of law.

The Writ Petition is accordingly allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

VILAS V.AFZULPURKAR, J

07.10.2015

Note:- Issue C.C. in two days.

(B/o)

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