

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

W.P.No.11325 of 2015

PC: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

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Heard Sri Prabhakar Peri, learned counsel for the petitioner and the learned Government Pleader for Revenue (TS) for respondents.

The petitioner challenges proceedings No.L.1555/2013-1 dated 20.11.2014 as arbitrary, illegal and further direct the 2nd respondent not to insist the petitioner to obtain NOC/clearance from the 2nd respondent in respect of the land measuring Acs.6-05 gts in Sy.Nos.202, 203, 204, 205 and 206 (P) in Kowkoor Village, Malkajgiri Mandal, Ranga Reddy District.

The relevant portion of the impugned proceedings reads thus:

“A show cause notice has been issued to M/s Modi Properties & Investments Pvt. Ltd., in the reference 3rd cited calling to show cause within fifteen (15) days from the date of receipt of the notice, why a penalty along with conversion fee should not be imposed upon for conversion of the above said agriculture land without obtaining permission under the Act.

Sri Soham Modi, R/o Paramount Builders has submitted explanation as called for and it has been considered and found to be not valid for the reasons and found to be not convincing.

In the circumstances explained above, penalty is imposed @ 50% on conversion fee stipulated under Section 1 of the Act for converting the agricultural lands in Sy.Nos.202, 203, 204, 205 and 206/P total extent Ac.6-00 situated in Kowkoor Village, Malkajgiri Mandal, Ranga Reddy District to Non-Agricultural purpose. Sri Soham Modi is hereby directed to pay the conversion fee along with penalty of Rs.87,12,000/-. The said amount should be paid within fifteen (15) days in the concerned Government Treasury and produce the copy of challan to the undersigned for regularization, failing which the amount will be collected by invoking the provisions of Revenue Recovery Act, 1864”.

Learned counsel for the petitioner contends that the levy and demand of conversion charges under the Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006 (for short '2006 Act') from petitioner is illegal and without jurisdiction. According to the petitioner, the petition land is notified as non-agricultural land by the Hyderabad Metropolitan Development Authority and now the conversion, by operation of law, from agriculture to the instituted purpose has taken place and consequently conversion charges under 2006 Act need not be paid. The further grievance is that the petitioner submitted explanation dated 13.11.2014 against the show cause notice dated 04.10.2014 to 2nd respondent and the 2nd respondent without either properly considering or conducting enquiry under 2006 Act has passed the order impugned.

Learned Government Pleader for Revenue (TS) submits that the legal effect of notification under the A.P. Urban Areas Development Act for conversion tax payable under 2006 Act is covered by the decision of this Court in W.A.No.702 of 2010 and batch dated 28.08.2015. He places reliance upon the following excerpts in the decision:

- a) it shall be competent for the Urban Development Authorities or the Local Authorities, as the case may be, to insist on submission of clearance/permission under the 2006 Act as a condition precedent for releasing of layouts, and
- b) the land has been put to non-agricultural use before the 2006 Act came into force, such clearance/permission shall not be insisted.
- c) Conversion of land into Non-agricultural use under the provisions of Act 3 of 2006 is necessary even if the land is covered by Master Plan and sanction of layout by the Development Authority under the provisions of Act 1 of 1975.

In reply to the other submission that the explanation is not fairly and properly considered by the 2nd respondent, the learned Government

Pleader submits that the defect is patent on the face of proceedings dated 20.11.2014 and the authorities will consider and pass appropriate orders.

Having regard to the material available on record, the view taken by this Court in W.A.No.702 of 2010 and batch and the submissions of learned counsel appearing for the parties, we are satisfied the writ petition can be disposed of by this order.

“The 2nd respondent is directed to re-consider the show cause notice dated 04.10.2014 in the light of explanation dated 13.11.2014 and the view taken by this Court in W.A.No.702 of 2010 and batch and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is given liberty to communicate a copy of this order along with the explanation for expeditious decision”.

The writ petition is, accordingly, disposed of.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

ACJ

DILIP B. BHOSALE,

S.V.BHATT,

J

Date: 13.10.2015

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