

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

-

W.P. No.2258 of 2009

-

ORDER :

-

-

-

This Writ Petition has been filed by petitioner to declare G.O.Ms.No.1304 Revenue (UC.I) Department and G.O.Ms.No.1305 Revenue (UC.I) Department, both dt.11.11.2008, **(for short, 'the impugned G.O.s')** as null and void.

2. Under these proceedings, the 1st respondent had decided to allot land in Survey Nos.30 and 25 of R.Agraharam in favour of 3rd respondent for construction of a communication building and any other purpose.

3. The petitioner contends that his father was the owner of vacant land admeasuring 48,150 Sq.Mtrs, situate in D.Nos.25, 23/5, 23/7, 30/1 and 23/6 of R.Agraharam Village having purchased the same during 1962 and 1963.

4. After the advent of the Urban Land (Ceiling & Regulation) Act, 1976 **(for short, 'the Act')**, petitioner's father filed declaration before 2nd respondent vide ULC.No.454 & 474/79-C.

5. Notices under Section 8(1) and 8(3) of the Act

were issued, but the petitioner's father did not file any objections thereto.

6. Thereafter, the 2nd respondent passed orders and issued statement under Section 9 of the Act on 27.10.1986.

7. The petitioner filed objections against the order under Section 10 (1) of the Act before 2nd respondent on 15.03.2003. The petitioner contended that 2nd respondent failed to pass orders under Section 8 (4) of the Act and without doing so, statement under Section 9 or order under Section 10 (1) of the Act could not have been issued.

8. On 09.04.2008, the 2nd respondent considered petitioner's objections and granted 2000 Sq.mts. each to petitioner and his brother, viz., Marsa Masthan Rao in D.No.25 and determined the excess as 42.279.03 Sq.Mts.

9. Subsequently, the father of petitioner also died.

10. Thereafter, notice under Section 10 (1) of the Act was published on 20.12.2005 mentioning about the surplus land of 42.279.03 Sq.Mts. in favour of petitioner's father. The petitioner contended that the notice under Section 10 (1) and 10(3) of the Act were issued against a dead person and not to him although respondents were

aware that the father of petitioner had already died. The petitioner also claimed to have applied to 2nd respondent for allotment of the lands on payment of market value pursuant to G.O.Ms.No.454. However, no orders were passed under Section 10 (5) and 10 (6) of the Act.

11. Thereafter, vide G.O.Ms.No.603 Revenue (UC.I) Department, dt.22.04.2008 the State of Andhra Pradesh adopted the Urban Land (Ceiling and Regulation) Repeal Act, 1999 with effect from 27.03.2008. In view of the said G.O., the Act stood repealed in the State of Andhra Pradesh.

12. The Government also issued a Circular Memo No.17377/UC.I(1)/2008-1 dt.24.04.2008, stating that cases where possession was not taken would stand abated.

13. The petitioner contends that the proceedings under the Act also stood abated on account of the adoption of the Repeal Act by the State of Andhra Pradesh with effect from 27.03.2008 and therefore, the petitioner was entitled to retain the said lands.

14. In the mean time, the 1st respondent issued the impugned G.O.s allotting 14898.83 Sq.Mts. in Survey No.25 and 7412.40 Sq.Mts. in Survey No.30 in favour of 3rd respondent. The petitioner contends that this action of 1st respondent is unsustainable, since there was no

taking of possession prior to repeal of the Act, and therefore, there was no vesting of any property in the 1st respondent which could have been allotted to 3rd respondent.

15. The 2nd respondent filed a counter-affidavit admitting that the entire urban land ceiling proceedings in relation to petitioner's father had abated on the repeal of the Act by adoption of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 with effect from 27.03.2008 vide G.O.Ms.No.603 Revenue (UC.I) Department dt.22.04.2008, the proceedings in the case of petitioner's father had not gone beyond 10(3) stage of the Act and that the impugned G.O.'s issued by 1st respondent in favour of 3rd respondent became invalid.

16. In view of this counter-affidavit filed by respondent nos.1 and 2 (the contents of which have not been disputed by counsel for 3rd respondent), it has to be declared that the impugned G.O.s are invalid, since they have been issued by 1st respondent not only after the repeal of the Act, but also on the ground that possession of the above land was not taken from petitioners' family before 27.03.2008.

17. Accordingly, the Writ Petition is allowed as above. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 24-06-2016

Ndr/*