

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.28965 OF 2008

ORDER:

This Writ Petition is filed seeking to declare the action of respondent authorities in not handing over possession of the land admeasuring 800 Square Yards covered by Survey Nos.216/2 and 218/2 situated at Khairtabad Village, Golconda Mandal, Hyderabad District, to the petitioners, as illegal and arbitrary and consequently, to direct the respondent authorities not to regularise encroachments on the subject land.

2. The case of the petitioners is that they are the legal heirs of one Mohammad Fareeduddin Khan, who holds an extent of Ac.9-00 of land in Survey Nos.216/2 and 218/2 of Khairtabad Village, Golconda Mandal, Hyderabad District, as an Inamdar. He filed an application before the Revenue Divisional Officer, Hyderabad, for grant of Occupancy Right Certificate (O.R.C.) under the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1967 (for short, 'the Act'). During pendency of the application, he died on 24.07.1987. The petitioners herein came on record as his legal representatives and pursued the matter. The Revenue Divisional Officer passed an order, dated 15.07.1989, granting O.R.C. for 3,642.93 Square Meters of land to each of the petitioners. Since the holdings of the petitioners exceeded 1000 Square Meters, they filed applications before respondent No.3 – Special Officer and Competent Authority, Urban

Land Ceiling. The said applications were processed and a common draft statement under Section 8 (1) together with a notice under Section 8 (3) of the Act was issued by respondent No.3 on 16.01.1992 and it was held that the petitioners are entitled to retain 1,000 Square Meters of land each and they are liable to surrender 2,642.93 Square Meters of land each. Before any further steps could be taken pursuant to the notice, dated 16.01.1992, respondent No.3 issued a revised draft statement on 16.02.1994 stating that the entire land of Ac.9-00 has to be computed as the holdings of late Mohd. Fareeduddin Khan and that he was entitled to retain only 1000 Square Meters of land and the rest of the land must be surrendered to the Government and issued a notice to that effect to the legal heirs of Mohd. Fareeduddin Khan. Since no objections were received, respondent No.3 passed order, dated 07.07.1994, confirming the draft statement, dated 16.02.1994. Aggrieved by the same, petitioners preferred an appeal before respondent No.2. The appeal was rejected on 27.01.2006. Questioning the same, W.P.No.3227 of 2006 was filed and the same was allowed by order, dated 01.04.2010, setting aside the order, dated 07.07.1994, passed by respondent No.3 and the order, dated 27.01.2006, passed by respondent No.2. Alleging that the respondent authorities have handed over only 400 Square Yards of land, though the petitioners are entitled to 1200 Square Yards of land, the present Writ Petition is filed

seeking to hand over possession of remaining 800 Square Yards of land.

3. Counter affidavit is filed admitting about grant of O.R.C. in favour of late Mohd. Fareeduddin Khan under the provisions of the Act and allowing of Writ Petition No.3227 of 2006, but they have denied about handing over of 400 Square Yards of retainable land to the petitioners.

4. Learned counsel for the petitioners submits that respondents have taken possession of the retainable area from the petitioners and though the petitioners were entitled to retainable land under the provisions of the Urban Land (Ceiling and Regulation) Act and though they made application, the same was not handed over to them.

5. Learned Assistant Government Pleader for Revenue, basing on the averments in the counter, submits that the question of taking possession of retainable land under the provisions of the Urban Land (Ceiling and Regulation) Act does not arise and as such, delivering possession of the same does not arise and once Writ Petition No.3227 of 2006 is allowed and the Urban Land (Ceiling and Regulation) Act, 1976, has been repealed, respondent Nos.2 and 3 have no role to play for handing over possession of subject land, that too of retainable area.

6. It is to be seen that, admittedly, in Writ Petition No.3227 of 2006, the proceedings, dated 07.07.1994, passed by respondent No.3 and proceedings, dated 27.01.2006, passed by respondent No.2 were set aside and the Urban Land (Ceiling and Regulation) Repeal Act, 1999 repealing Urban Land (Ceiling and Regulation) Act, 1976, came into force. Further, when the assertion of the petitioners that the retainable area has been taken over possession by the respondent authorities was denied in the counter affidavit, no reply is filed by the petitioners to the same.

7. In view of the same, question of directing respondent Nos.2 and 3 to hand over possession of the subject land to the petitioners does not arise. Hence, I see no merit in the Writ Petition.

8. Accordingly, the Writ Petition is dismissed. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. There shall be no order as to costs.

November 01, 2016.
MD

A. RAJASHEKER REDDY, J

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