

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.29896 of 2012

ORDER:

Heard Sri Vedula Venkataramana, learned Senior Counsel for the petitioner, the learned Government Pleader for Revenue appearing for respondent Nos.1 to 4 and Sri Sivalanka Ramachandra Prasad, learned counsel for respondent Nos.5 to 25.

2. The subject matter in this Writ Petition is an extent of 2678 square meters with constructed buildings in Sy. No.216 corresponding to T.S.No.1, Block No.L, Ward No.109, Circle 18 of Neelam Balaiah Doddi, Bansilalpet, Musheerabad Mandal, Hyderabad.

3. A preliminary notification dt.28-05-2011 was published in the A.P. Gazette under Section 3 (1) of the Andhra Pradesh Slum Improvement (Acquisition of Land) Act, 1956 by 1st respondent alleging that the above property is a "slum", for inclusion as 'slum area', alleging that the civic infrastructure facilities like drainage, drinking water and roads etc. were not available, that the living conditions were very unhygienic and the area was low lying. In view of these reasons, the notification stated that the 2nd respondent was satisfied that the above area was a source of danger to public health, safety or convenience of its neighbourhood, and so the 2nd respondent declared under sub Section (1) of Section 3 of the above Act that

this area is a “slum area”.

4. Thereafter notices were issued calling for objections in File No.688/LA/UCD/GHMC/2011 dt.31-10-2011 of the Special Deputy Collector, Land Acquisition, Greater Hyderabad Municipal Corporation (GHMC), Hyderabad to show cause why the lands in the notified slum should not be acquired for undertaking the execution of works designed to improve or clean the area in the interest of public health, safety or convenience of its neighbourhood.

5. Claiming to be the co-owner of the above property and alleging that the same is his ancestral property wherein he had leased out various portions to 42 persons and alleging that he had initiated eviction proceedings against them under A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 and also obtained orders of eviction, the Writ Petitioner filed objections on 02-11-2011 in the office of the 2nd respondent. It was also acknowledged by the office of 2nd respondent. However, final notification was issued under Section 3 (2) of the above Act on 16-11-2011 stating that no objections were received to the Notification dt.28-05-2011.

6. Learned Senior Counsel for the petitioner contends that this action of 1st respondent in not considering the petitioner's objections dt.02-11-2011 to the notice dt.31-10-2011 under Section 3 (1) of the Act

and issuing a final Notification on 16-11-2011 under Section 3 (2) of the Act cannot be sustained and that 1st respondent was bound to consider the petitioner's objections and then only take further action.

7. In the counter affidavit filed by 2nd respondent at para-5, it is stated as under:

"It is admitted that the objections filed by the Writ Petitioner were received in the office of the Collector on 02-11-2011, however since the file is initiated and maintained in the O/o. Spl.Dy. Collector, L.A.GHMC these objections were sent to GHMC for remarks but before the objections reached the office the Spl. Dy. Collector, L.A.GHMC on 18-11-2011 the notification under Form -III, U/s.3 (2) of the Act, was approved and gazetted vide No.42 dt.16-11-2011, as the stipulated time granted under the Act was completed and the office of the Spl. Dy. Collector, L.A.GHMC processed the 3 (2) notification deeming that no objections were received."

8. From the above admission in the counter affidavit of 2nd respondent, it is clear that although the objections filed by the petitioner were received by 2nd respondent office on 02-11-2011, they were in fact not considered because they did not reach the office of the Special Deputy Collector, Land Acquisition, GHMC who processed notification under Section 3 (2) of the Act and so by deeming that no objections were received, he published it on 16-11-2011. This is clearly contrary to the provisions of the Act which mandate that objections to the notices under Section 3 (1) of the Act shall be considered before

taking further action to finally notify the area as a slum under Section 3 (2) of the Act.

9. Sri Sivalanka Ramachandra Prasad, learned counsel for respondent Nos.5 to 25, contended that at the instance of his clients, the impugned notification was issued. But he did not dispute the fact that the objections filed by the petitioner were not considered by 1st respondent before the final notification was issued under Section 3 (2) of the Act.

10. Since there is clearly noncompliance with the provisions of the Act inasmuch as objections dt.02-11-2011 filed by the Writ Petitioner to the notice dt.31-10-2011 issued under Section 3 (1) of the Act were not considered, the impugned notification dt.16-11-2011, issued by 2nd respondent in proceedings in File No.688/LA/UCD/GHMC/2011 notifying the subject land as a slum area and acquiring it, cannot be sustained and is accordingly set aside.

11. The 2nd respondent is directed to consider the objections dt.02-11-2011 filed by the petitioner and then decide what further action should be taken under the Act. This exercise shall be completed by the 2nd respondent within three months from the date of receipt of a copy of this order.

12. Accordingly, the Writ Petition is disposed of.

No costs.

13. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 02-06-2016

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