

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.27341 of 2016

ORDER:

Heard the learned counsel for the petitioner, Sri V.Narsimha Goud, learned counsel for 2nd respondent.

2. Petitioner purchased certain land in in Sy. No.172/E of Bollavaam village, Narsmpur Taluk, Medak District under registered sale deed. This land, according to the petitioner, was already declared as an industrial zone vide G.O.Ms.No.391 MA dt.23-06-1980 by the Hyderabad Urban Development. Petitioner applied on 29-03-2016 to the 2nd respondent for sanction of industrial building permission in the said land. Petitioner filed the Writ Petition stating that the respondents are insisting that the petitioner should obtain certificate from the Revenue Division Officer (RDO) for change of land use and that such permission is unnecessary in view of G.O.Ms.No.639 dt.03-06-1981 issued by 1st respondent under the provisions of Section 12 (2) of the AP Urban Areas (Development) Act, 1975.

3. In the counter affidavit filed by 2nd respondent, the 2nd respondent refers to AP Agricultural Land (Conversion of Non-Agriculture Purpose) Act, 2006 (for short '2006 Act') and contends that the petitioner should produce the clearance certificate from the RDO who is a competent authority to verify the land record and state whether it is an agricultural land or non-agricultural land. It is stated that the petitioner was requested vide letter dt.04-06-2016 to submit

such clearance certificate from the RDO concerned under the said Act. Reference is also made to order dt.28-04-2010 in W.P.No.26688 of 2007 and batch and it is contended that 2nd respondent is entitled to insist on submission of clearance or permission under this Act as condition precedent for releasing layout and that if the land has been put to non-agricultural use before the 2006 Act came into force, such clearance would not be insisted upon. Reference is also made to Memo dt.18-10-2007 issued by 1st respondent directing Municipal Commissioner and Vice Chairman of Urban Development Authorities to approve eligible layouts only on production of conversion permission obtained by the RDO or competent authority by duly paying the conversion fee under the 2006 Act.

4. Learned counsel for 2nd respondent has also relied upon the proceedings dt.22-09-2016 rejecting petitioner's request for exemption from producing NOC from the Revenue Department on the ground that petitioner has not produced evidence of the land being put to non-agricultural use prior to the coming into 2006 Act and it is stated in the above judgment of this Court that conversion of land into non-agricultural use under the 2006 Act is necessary even if the land is covered by Master Plan and sanction of layout by the Development Authority under the provisions of AP Urban Area (Development) Act, 1975.

5. When the land in question has already been notified under the AP Urban Area (Development) Act, 1975 vide

G.O.MNs.No.639 dt.03-06-1981 by 1st respondent as industrial zone, by virtue of the Board's Notification under Section 12 (2) of the AP Urban Area (Development) Act, 1975, the land in question has already stood converted into industrial use.

6. Therefore, when it was already a non-agricultural land even by 1981, to insist that the petitioner should obtain NOC from the RDO again on payment of charges under the 2006 Act, is patently illegal and cannot be sustained.

7. Accordingly, the Writ Petition is allowed and the action of the respondents in not sanctioning industrial building permission in the subject land to the petitioner is declared as arbitrary and unconstitutional and the respondents are directed to sanction industrial building permission to the petitioner subject to the petitioner complying with all other requirements of law. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 28-09-2016

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