

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.10882 of 2006

Order:

The facts of the case are that the father of the petitioner was given a patta under Section 11(a) of the Estates Abolition Act by the Assistant Settlement Officer, Anakapalli for an extent of Ac.3.60 cents in Survey No.4/2 of Maddilapalem village, Visakhapatnam. His name was incorporated in the revenue records. He filed declaration before the Special Officer and Competent Authority, Urban Land Ceiling, Visakhapatnam and an extent of Ac.1.3223 sq. meters was declared as surplus. An enquiry was conducted where the petitioner's father participated. A notification under Section 10(3) of the Urban Land Ceiling Act was published in the A.P. State Gazette on 14.09.1990. Thus, the entire surplus land vested with the Government. He executed a sale agreement on 04.04.1981 to sell 550 sq. yards in Survey No.4/2 and received full consideration from one P.V.R. Sharma, but failed to execute sale deed. In those circumstances, the vendee filed OS No.874 of 1987 on the file of VII Additional District Munsif, Visakhapatnam for specific performance of agreement of sale and the said suit was decreed. Similarly, the writ petitioner's father also executed another sale agreement to sell 555.55 sq. yards in the same survey number in favour of one P.R.P. Sharma and received full consideration. The said vendees approached the Special Officer and Competent Authority, Urban Land Ceiling, Visakhapatnam requesting for regularization of their lands in terms of G.O.Ms.No.455, Revenue Department, dated 29.07.2002. In those circumstances, proposals were submitted to the Government for regularization on payment of market value. Accordingly, the Government

issued G.O.Ms.No.92, Revenue Department, dated 15.01.2005 allotting the surplus land to the third parties who are in occupation under Section 23(4) of the Urban Land Ceiling Act. Subsequently, errata in G.O.Ms.No.173 dated 02.02.2005 was also issued with regard to Plot No.8 instead of plot No.5. Challenging the said allotment, the present writ petition was filed.

A counter affidavit is filed by the Urban Land Ceiling Authority stating that the fourth respondent was having a structure in the plot sold to her and the excess land was determined after due enquiry conducted by the authority where the petitioner's father participated. In fact, the writ petitioner's father himself declared the properties owned by him and he nowhere mentioned about the partition in 1957. Four declarations were filed by the family members of the writ petitioner's father. The writ petition filed by the petitioner after lapse of 30 years cannot be entertained.

A separate counter affidavit is filed on behalf of the respondents 4 to 8 stating that the petitioner was never in possession and enjoyment of the subject property. They further state that after purchase of the property they have sold part of the property in Plot No.5 to M/s. Niranjana Foundations by way of a registered sale deed dated 11.05.2006. The entire land in Survey No.4/2 owned by the writ petitioner's father in an extent of Ac.3.60 cents was developed as residential lay out and it was assigned L.P.No.8/68 by the Director of Country and Town Planning. He sold Plot Nos.5 and 8 to the predecessors in interest of the respondents through an agreement of sale and handed over possession on 25.06.1977 and 04.04.1981 respectively. When no registered sale deed was executed, OS No.846 and 874 of 1987 were filed before the I Additional

District Munsif, Visakhapatnam seeking specific performance and the same were decreed on 11.09.1987. On filing execution petitions, the said plots were registered by the VII Additional District Munsif in the names of the purchasers by registered sale deed No.768 of 1990 dated 12.03.1990. The said two plots were included in the Urban Land Ceiling proceedings and in view of the declaration of the petitioner's father as surplus land holder, after issuance of G.O.Ms.Nos.455 and 456 the vendees filed an application seeking regularization. Accordingly, G.O.Ms.No.92 dated 15.01.2005 was issued allotting an extent of 555.55 sq. yards in the name of P.R.P. Sharma and 550 sq. yards in the name of P. Uma Sharma with a direction to pay an amount of Rs.99,952/- and 98,952/- respectively as per G.O.Ms.No.455 dated 29.07.2002. The said amount was paid.

The above facts show that the petitioner's father was granted a patta to an extent of Ac.3.60 cents and after coming into force of Urban Land (Ceiling and Regulation) Act, 1976 he filed a declaration declaring an extent of 30,574.14 sq. meters along with his three other brothers who filed separate declarations. The declaration filed by the petitioner's father was considered in CC No.6304 of 1976 and he was declared as surplus holder to an extent of 1.3223 sq. meters. By that time, he also executed agreements of sale in favour of unofficial respondents who filed O.S. Nos.846 and 874 of 1987 for specific performance of agreement of sale and obtained decrees on 11.09.1987. When the Government issued G.O.Ms.No.455 providing benefit for regularization of the lands in possession of the third parties which were declared as surplus lands held by the petitioner's father the Government issued G.O.Ms.No.92 dated 15.01.2005 and the said G.O cannot be challenged by the petitioner in view of the above circumstances.

Accordingly, this Court sees no ground to interfere with the said Government Order. The Writ Petition is, accordingly, dismissed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 13.06.2017
Nsr

