

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.2271 OF 2006

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking to declare the action of the respondents in trying to alienate the petitioner's house property admeasuring 167.00 sq.yards (139.62 sq.mtrs) situated in survey No.109 new (old No.207) at Waddepally (V), Hanamkonda (M) of Warangal District, to third parties as illegal, arbitrary and violative of principles of natural justice and consequently direct the first respondent not to alienate the land of the petitioner to third parties.

2. Brief facts of the case are that one Pingila Vijayapal Reddy S/o.Krishna Reddy, is the absolute owner of an extent of Ac.0.03 guntas in survey No.109 new (old 207) admeasuring 167.00 sq.yards equivalent to 139.62 sq.mtrs. situated at Waddepally Village, Hanamkonda Mandal, Warangal District (hereinafter referred to as 'subject property'). Said Vijayapal Reddy sold the said land to one Bollapalli Yellaiah through sale deed dated 19.05.1961. Bollapalli Yellaiah was also having lands in survey Nos.419, 415, 658, 655, 717 and 113 along with the land in survey No.109. Bollapalli Yellaiah filed ULC declaration vide ULC No.A2/1948/76 under Section 10 (2) of the Urban Land Ceiling Act, 1976, before the Special Officer, Competent Authority, Urban Land Ceiling, Warangal. He has also claimed that the lands in survey Nos.109 and 113 measuring 2955 Sq.Mtrs. and 820 Sq.Mtrs. respectively are the agricultural lands situated outside the municipal limits. According to G.O.Ms.No.323 M.A.

dated 17.05.1977 the agricultural lands were exempted and thereby sought for deletion of the subject land for the purpose of calculating the ceiling limit. Said Yellaiah further claimed that the property is the ancestral property and his son Shyamsunder, aged 20 years, is also entitled to have a share in the above land and also contended that he gifted an extent of Ac.0.15 guntas each to his two daughters (1) Smt.Nirmala and (2) Smt.Hemalatha as 'Pasupu Kumkuma' during their marriage in the year 1973 by executing on stamp paper bearing No.8112 dated 24.03.1973. Bollepalli Yellaiah was declared as not holding any excess lands under the Urban Land Ceiling Act, 1976, vide order dated 30.06.1986 in ULC No.A2/1946/76 of the competent authority under the Urban Land Ceiling Act. The children of Bollepalli Yellaiah i.e. his son Shyamsunder and his daughters Smt.Nirmala and Smt.Hemalatha, who were the allottees of the land in survey No.109 new (209 old), had sold away land to an extent of Ac.0.03 guntas to one Radapaka Paramjyothi through stamp paper vide document No.12476 dated 31.08.1995. Thereafter, said Paramjyothi impounded the said document before the Revenue Divisional Officer, Warangal, vide D.Dis.No.A/4704/2001 dated 01.12.2001 by paying necessary stamp duty and penalty and thereby validated the document. Subsequent thereto, Paramjyothi gifted an extent of 336.00 sq.yards through registered settlement deed dated 16.01.2002 to his son Radapaka Shyamsunder, aged 16 years being minor represented by his natural mother Radapaka Gressemma. Before executing gift settlement deed, Radapaka Paramjyothi filed application No.8/2261/2001 dated 04.12.2001 before the Special Deputy

Tahasildar, ULC, Warangal, seeking ULC clearance and the said authority issued proceedings dated 10.12.2001 along with sketch stating that the above lands are not covered by any declarations under Section 6 (1) of the Urban Land Ceilings Act and also stating that no structures exist in the said land and the land is not hit by the Ceiling Act. Thereafter, the son of Radapaka Paramjyothi obtained permission from the Special Officer and Competent Authority under ULC Act, Warangal, vide proceedings No.A8/1171/2003 dated 04.08.2002, which was valid up to 13.11.2002. The petitioner purchased the above mentioned land from Radapaka Sudheer being a minor represented by his natural mother Smt.Radapaka Gressamma, through sale deed dated 31.07.2002 by paying sale consideration. He has been in possession and enjoyment of the land since the date of purchase. When the third respondent is trying to alienate the subject property to third parties, petitioner filed the present writ petition.

3. This Court on 07.02.2006 granted an interim direction not to alienate the land in survey No.109 new (old 207) Waddepalli Village, Hanumakonda Mandal, Warangal District, to an extent of 167.00 Sq.yards or 139.62 Sq.Mtrs., to third parties.

4. The respondents, so far, not filed any counter in this writ petition, even after granting several adjournments before hearing the matter and passing the present order.

5. In the facts and circumstances of the case, in considered view of this Court, the land purchased by the petitioner to an extent of 167 Sq.Yards or 139.62 Sq.Mtrs. in survey No.109 new (207 Old) of Waddepally (V), Hanamkonda (M) of Warangal District,

is covered by ULC proceedings No.A2/1946/76 dated 30.06.1986 ended in favour of Bollepalli Yellaiah declaring that he is not in possession of any excess land under the provisions of the ULC Act and thereafter the subsequent sale transaction was taken place after obtaining ULC clearance vide ULC No.8/2261/2001 dated 10.12.2001 of the Special Deputy Tahasildar, ULC, Warangal, and permission was also granted vide proceedings No.A8/1171/A3 dated 04.08.2002. As the land purchased by the petitioner is not an excess land and covered under the ULC proceedings, the action of the respondents in trying to alienate the land to third parties treating it as excess land under the provisions of the ULC Act, is unjustified and illegal.

6. Hence, the respondents are directed not to alienate the petitioner's house property in the land admeasuring 167.00 sq.yards or 139.62 sq.mtrs. situated in survey No.109 new (207 old) of Waddepalli Village, Hanamkonda Mandal, Warangal District, to third parties, without any notice.

7. Accordingly, the Writ Petition is disposed of.

8. Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

22nd December, 2017
sur/kpm