

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.33368 of 2017

Date :11.10.2017

Between :

Y Hussain Vali S/o Y Gafur Basha
37 yrs R/o Lingamdinne village, Allagadda mandal
Kurnool district

Petitioner

And

The State of A P
Rep by its Principal Secretary
Revenue Department, Secretariat, Amaravathi and others

Respondents

The Court made the following:



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ORAL ORDER:

Petitioner claims that he is owner of land to an extent of Ac.6.50 cents in Survey No. 1570, P.Kothakota Revenue village, Puthalapattu mandal, Chittoor district. He applied for conversion of the land from agricultural purposes to non agricultural purposes on 27.4.2016 and also paid conversion fee of Rs.1,17,000. Alleging in action on the said application, petitioner filed this writ petition.

2. At the time of hearing, learned Assistant Government Pleader produced endorsement dated 23.9.2016 and contended that the application of the petitioner was already rejected and once such rejection was made, petitioner has to avail the remedy of Appeal under Section 8 of A.P. Agricultural Land (Conversion for Non Agricultural purposes) Act & Rules, 2006 and without exhausting the remedy of appeal, writ petition is not maintainable.

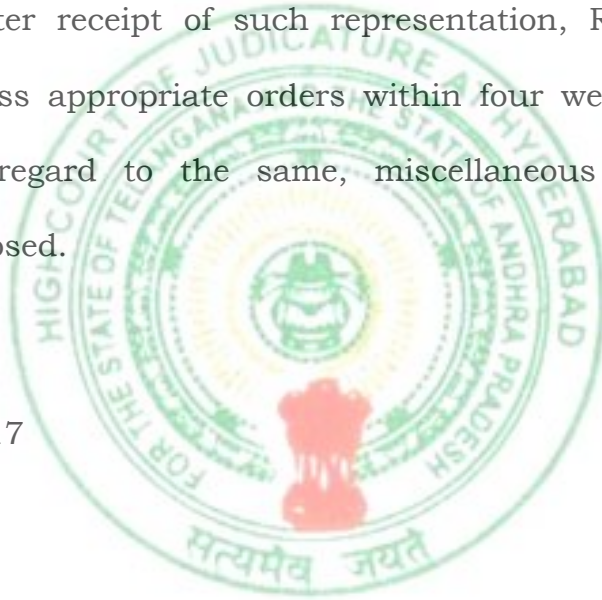
3. Learned counsel for petitioner contends that no such endorsement was communicated. However, he would further submit that even assuming that endorsement is communicated a detailed perusal of the endorsement would show that no reasons are assigned in the decision to reject the request of the petitioner and without knowing the reasons for rejection, it would be futile exercise for petitioner to prefer an appeal, therefore the question of availing the remedy of appeal does not arise. He further submits that petitioner as owner of land has primary right to utilize land for his benefit according to his requirements. However, when land classified as agricultural land sought to be converted for non agricultural purposes, the provisions of the Act require application to be made for such conversion and payment of conversion fee. The Act has a limited application and when an

application is made for conversion while processing such request and rejecting the request, rejection must contain sufficient reasons in order to enable the petitioner to avail the remedies as available in law and cannot be rejected summarily without assigning reasons.

4. I find merit in the said contention. Owner of the land is entitled to utilize his land as per his convenience and for advancement of his family requirements or for earning better profits. It is his right to utilize the land as required by him. However, Act 2006 requires a person who is in possession of the agricultural land to apply for conversion of such agricultural land to non agricultural purposes and pay required fee for such conversion. Primarily the objective of the enactment is to ensure that when land is to be used for non agricultural purposes, there shall be other incidental requirements which State has to provide, therefore State insist the conversion fee in order to ensure the provision of required facilities or amenities on such conversion. There may be other objectives of the enactment which need not be elaborated or dealt with at this stage. Be that as it may, whenever an application is made under the Act and the statutory authority while exercising powers under the Act, considers such application and takes a decision, such decision must be an informed decision, therefore minimum requirement of such decision is it must contain reasons in support of the decision taken, more particularly when such decision is adverse to the claims of the applicants. In the instant case, the endorsement dated 23.9.2016 does not contain reasons and it only says that the request is rejected as per the report of the Tahsildar. This statement is vague, does not contain the date of the report of the Tahsildar, does not disclose the content of the report of the Tahsildar nor copy of the said report is furnished to petitioner. Thus, endorsement cannot be said as a decision made in the eye of law to compel the petitioner to avail the remedy of appeal as available under Section 8 of the Act.

5. Having regard to the same, writ petition is disposed of directing the Revenue Divisional Officer to consider the claim of the petitioner for conversion of the land claimed to have been owned by him from agricultural purposes to non agricultural purposes made on 27.4.2016 and shall pass appropriate orders as warranted by law by assigning due reasons in support of the decision and communicate the decision. Learned counsel for petitioner seeks leave of the Court to make further representation. Leave granted. It is open to the petitioner to make a representation enclosing the relevant documents in support of his application for conversion of land from agricultural to non agricultural purposes within two weeks from the date of receipt of copy of this order. After receipt of such representation, Revenue Divisional Officer shall pass appropriate orders within four weeks thereon. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE:11.10.2017
TVK



P NAVEEN RAO,J

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