

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.27375 of 2007

ORDER :

This Writ Petition is filed by the petitioner challenging the proceedings No.12/3986/2006, dt.04.09.2007 of the 1st respondent refusing to regularize the land and structure in the petitioner's occupation pursuant to G.O.Ms.No.674 Revenue (Assn.I) Department dt.08.06.2006.

2. Petitioner states that he is the sole owner of the house bearing No.8-2-602/2/B in plot bearing No.2B admeasuring 562 sq. yards situated in Road No.10, Banjara Hills, Hyderabad, having purchased the same under irrevocable Agreement-cum-General Power of Attorney with possession for a valuable consideration under registered document No.1281/2006 dt.08.03.2006 from one Smt P.Nagarathnam. Petitioner contends that the said Nagarathnam had purchased the subject property from one M.Subrahmanyam on 02.02.1976 under a registered sale deed bearing No.308/1976.

3. Alleging that there is a structure in the premises as early as 1976, that the revenue officials started claiming that this property falls in Town Survey No.6, Block M, Ward No.111 correlated to survey No.403 of Shaikpet village and it is classified as government land and branded his predecessor in title as encroacher, and since scheme for regularization of encroachers was notified vide G.O.Ms.No.1601, Revenue Department dt.29.08.2005, which was later amended by extending time limit to 30.09.2006 for receipt of applications vide G.O.Ms.No.674, Revenue Department

dt.08.06.2006, petitioner had applied for regularization on 29.06.2006.

4. Petitioner contends that the said application was rejected by the 2nd respondent by the impugned proceedings wrongly stating that there was no visible or remote signs of demolition of structures or existing structures, ignoring the fact that a photograph was filed by the petitioner before the 2nd respondent showing the structure.

5. Counsel for the petitioner contends that as per G.O.Ms.No.674, dt.08.06.2006, if there is a structure of an encroacher existing prior to 31.03.1990, possession of the encroacher is bound to be regularized and cannot be rejected.

6. The Government Pleader for Revenue appearing for respondents however contends that the sale deed of Smt P.Nagarathnam does not disclose the existence of a structure, that the property tax receipts filed by the petitioner are from 2002 onwards and not prior to 31.03.1990 as required under G.O.Ms.NO.674 dt.08.06.2006, that in fact there were no structures at the time when the application of the petitioner was considered by the 1st respondent and therefore, there is no illegality in the impugned order. He further pointed out that after passing of the order on 04.09.2007, petitioner again applied for regularization under G.O.Ms.No.166, dt.16.02.2008 which was also rejected and that the land in fact was declared as government land in LGC.No.18 of 1990 by the Special Court under the A.P. Land Grabbing (Prohibition) Act, 1982 and W.P.No.12799 of 1996 filed challenging the decision of the said Court was also dismissed.

7. As per G.O.Ms.No.674, dt.08.06.2006 an encroacher is entitled to seek regularization if there is a residential or commercial structure existing on government land prior to 31.03.1990 and the regularization is subject to payment of market value as stipulated therein. So, the burden is on the petitioner to establish that the structure in the land claimed by the petitioner was existing prior to 31.03.1990.

8. It is not in dispute that the sale deed dt.02.02.1976 of the petitioner's vendor, Smt P.Nagarathnam, from one Sri M.Subrahmanyam does not disclose the existence of any structure. Even the tax receipts evidencing payment of municipal tax by the petitioner relate to the period from 01.04.2002. It is also not in dispute that the land in question was held to be government land by the Special Court under the A.P. Land Grabbing (Prohibition) Act, 1982 in LGC.No.18 of 1990 and it was confirmed in W.P.No.12799 of 21996 by this court.

9. Even assuming for the sake of argument that the statement in the impugned order about the absence of structure in the land is not correct, still the petitioner will not be entitled to the relief of regularization under G.O.Ms.No.674, dt.08.06.2006, since the petitioner failed to establish that there was a structure in the subject land prior to 31.03.1990.

10. Therefore, I am of the view that petitioner is not entitled to any relief in this Writ Petition and it is accordingly dismissed. There shall be no order as to costs.

11. Consequently, miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

M.S.RAMACHANDRA RAO, J

20th February, 2017.

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