

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.19868 of 2007

ORDER

This writ petition is filed challenging the action of the 1st respondent in addressing a letter in R.C.No.A9/1739/2007, dated 1.9.2007 requesting the 2nd respondent to cancel the registered document No.7667/2007, dated 12.7.2007, in favour of the petitioners.

The case of the petitioners is that one late Hanumakonda Laxman was the pattadar and possessor of the land admeasuring Ac.2.08 cents in Sy.No.44 of Hanmakonda Revenue Village, Hanmakonda Mandal, Warangal District. He sold an extent of Ac.0.16 ½ guntas to one Matur Narasimha Rao. The original pattadar was in possession and enjoyment of the balance land of Ac.1.31 ½ guntas. The said Laxman executed a gift settlement deed on 13.09.1976 in favour of his daughter transferring an extent of Ac.0.39 guntas of land in Sy.No.44 of Hanmakonda Village and half share in the tiled house bearing No.3/1142. She sold an extent of Ac.0.36 guntas in favour of petitioners 1 and 2 by registered sale deed dated 18.12.1996 for a consideration of Rs.3,00,000/-. Thus, petitioners 1 and 2 came in possession and enjoyment of the same. They intended to sell said extent of Ac.0.36

guntas (equivalent to 4356 square yards) within the Urban Agglomeration of Warangal Urban Agglomeration and they issued a notice to the 1st respondent under Section 26 (1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'). The 1st respondent *vide* proceedings dated 21.6.2007 intimated that the State Government has no intention to acquire or purchase the said property. After receipt of the said communication, petitioners 1 and 2 agreed to sell the same to the 3rd petitioner. Accordingly, they executed an agreement of Sale-cum-General Power of Attorney in favour of the 3rd petitioner through document dated 12.7.2007 and the same was registered in the office of the 2nd respondent. When the petitioners came to know that the 1st respondent addressed a letter dated 1.9.2007 requesting the 2nd respondent to cancel the document No.7667/07, dated 12.7.2007, they filed the present writ petition challenging the said communication.

The communication was issued by the 1st respondent on 1.9.2007, after referring to the communications 21.6.2007 & 12.07.2007 issued under Section 26 (1) of the Act, and it reads as under:

“I invite kind attention to the reference cited and submit that a proceeding has been issued to Mandha Kumara Swamy s/o Mallaiah and Perla Cheralu s/o Komuraiah R/o Pedammagadda, Warangal in Sy.No.44 to an extent of 4.356 square yards.

In this connection, I submit that the Sy.No.44 of Hanamkonda is covered in (4) C.C files (1)A2/2947/76 (2) A3/547/76 (3)A1/4346/76 (4) A2/1579/76.

The above CC files have not verified thoroughly.

I request the District Registrar, Warangal to cancel the Document No.7667/07, dated 12.07.2007 immediately which is registered basing on the certificate issued vide Ref 2nd cited.”

This Court, by order dated 20.09.2007, directed the 2nd respondent not to cancel the agreement of Sale-cum-General Power of Attorney and also directed the petitioners not to alienate or encumber or make any construction over the land in question. The said order was made absolute on 23.09.2009, and thus, it is in operation as on today.

In the meanwhile, the Urban Land Ceiling Act was repealed and it came into effect in the State of Andhra Pradesh with effect from 27.3.2008.

The counter-affidavit filed by the 1st respondent does not disclose the final declaration of surplus land and taking over of any part of the land before the said date.

In view of the repeal of the Urban Land Ceiling Act itself, the 1st respondent lost jurisdiction to address any communication in respect of the land, which was not taken possession under the provisions of the Act.

In the circumstances, the Writ Petition is allowed by setting aside the communication dated 1.9.2007. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

13th June, 2017
rkk

