

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 12225 of 2006

Order:

The case of the petitioner is that his predecessor in title Lt. Col. Agha Mohammed Jaffer was a member of Vijayanagar Ex-Servicemen Cooperative Society Limited and the erstwhile City improvement Board allotted House Plot No.12/A to him. He constructed a house over the site and the Municipal Corporation of Hyderabad allotted House No.10-2-317/20. The society requested the respondent to convert the lease hold rights into free hold rights and the same was accepted by the respondent. The members of the Ex-servicemen Society paid total sale consideration to the respondent and in spite of several letters dated 09.06.1963 and 24.06.1963 addressed by the Secretary of the society, the respondent failed to execute registered sale deeds. While so, after lapse of 43 years, the respondent issued a letter on 26.07.2005 for which the petitioner issued a reply. When the respondent issued a letter on 06.05.2006 directing the petitioner to pay an amount of Rs.20,000/- per sq. yard giving an opportunity to the petitioner to purchase the plot at that rate within 15 days from the date of receipt of the letter, the petitioner filed the present Writ Petition.

A counter affidavit is filed by the respondent stating that the land was originally given on lease to the said Aga Mohammed Jaffer vide lease deed dated 21.06.1956 for a period of 99 years by collecting a premium of Rs.500/- and fixing the rent at Rs.15/- per annum payable on the 1st day of July every year subject to the terms and conditions in the said lease deed. Subsequently, the City Improvement Board was abolished and the AP Housing Board was formed. The allegation that the members of the

Ex-servicemen Society paid the total sale consideration and the respondent failed to execute the registered sale deeds was denied. However, when the Government issued G.O.Ms.No.46, Housing Department, dated 02.07.2005, permitting the respondent to convert the said lease hold lands into free hold by adopting the rates given therein during the period of one year and making it applicable only to the original lease holders and not to third parties, in anticipation of the Government Orders, the respondent issued a letter to the petitioner who is in occupation of the house constructed by the original lessee offering to execute a registered sale deed at the rate of Rs.20,000/- per sq. yard. The petitioner did not avail that remedy. The period of consideration of cases was not extended beyond one year and the Government did not permit the regularization of occupation of third parties also.

Learned counsel for the petitioner submitted that though the period of scheme expired, in view of pendency of the writ petition, the petitioner is entitled to avail the offer.

Learned Standing Counsel for the respondent submitted that in Writ Petition No.7996 of 2006 when a third party challenged the applicability of the scheme for a particular period and when a learned single Judge of this Court made it applicable to the pending writ petitioner the same was set aside by a Division Bench of this Court in Writ Appeal No.161 of 2013 holding that when the scheme is applicable only to a particular period the same cannot be extended by this Court. He further submitted that the impugned letter itself was issued in anticipation of the Government Order and the Government never permitted the regularization of the lands in favour of third parties.

In view of the submissions made by the learned Standing Counsel for the respondent, nothing survives for adjudication in the present Writ Petition, as the original scheme framed under G.O.Ms.No.46, dated 02.07.2005, itself expired by 01.07.2006 and it is applicable only to the original allottees and the petitioner is not an original allottee.

The Writ Petition is, accordingly, dismissed. However, the dismissal of the Writ Petition will not come in the way of the petitioner availing any benefit that may be extended by the Government in future. There shall be no order as to costs.

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

Date: 20.06.2017
Nsr

A. RAMALINGESWARA RAO, J

