

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.2384 of 2017

ORDER :

Heard Sri P. Venu Gopal, learned Senior Counsel appearing for Mrs A.B.Lalitha Gayathri, counsel for petitioner, the learned Government Pleader for Revenue for respondent nos.1 to 5, and Sri V. Brahmaiah Chowdary, counsel for 6th respondent.

2. The petitioner has filed the Writ Petition assailing the proceedings of 3rd respondent dt.27.09.2010 and consequential proceedings No.B/1630/2016 dt. -09-2016 issued by 4th respondent.

3. The petitioner contends that he has been given 'Occupancy Right Certificate' in respect of an extent of Acs.17.20 guntas situate at Thummaloor Village, Maheshwaram Mandal vide proceedings No.J/3390/2001 dt.02.10.2002; thereafter, he became owner of the subject property under the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950; that the said order was passed by 3rd respondent after a detailed enquiry, and an objection filed by one Sri K. Rajeswar Rao (predecessor-in-title of the 6th respondent) was also rejected while granting 'Occupancy Right Certificate' to the petitioner; that without issuing any notice to the petitioner, the 3rd respondent on 27.09.2010 granted 'Occupancy Right Certificate' to the 6th respondent; and this was implemented by the 4th respondent in his proceedings No.B/1630/2016 dt. -09-2016, which was served on petitioner on 17.01.2017.

4. The counsel for petitioner contended that for the same land after giving 'Occupancy Right Certificate' to petitioner, the 3rd respondent has issued 'Occupancy Right Certificate' to the 6th respondent, and that this is impermissible in law.

5. When the matter had come up earlier, this Court on 24.01.2017 had suspended the proceedings No. B/1630/2016 dt. .09.2016, as well as the proceedings in J/2649/2010 dt.27.09.2010, issued in favour of the 6th respondent; and the said order was extended from time to time.

6. On 04.12.2017, this Court directed the Government Pleader for Revenue to produce the record in order to see whether notice was given to Writ Petitioner before passing the impugned order on 27.09.2010 by the 3rd respondent.

7. The learned Government Pleader for Revenue states that there is no record available to show service of notice on petitioner before passing the impugned order on 27.09.2010 by the 3rd respondent granting 'Occupancy Right Certificate' to 6th respondent.

8. Thus, it is clear that the said order has been passed by 3rd respondent in gross violation of principles of natural justice, and behind the back of petitioner.

9. The counsel for 6th respondent sought to contend that he had applied under the Right to Information Act, to the Office of the 3rd respondent to furnish copy of the proceedings dt.02.10.2002 under which the 'Occupancy Right Certificate' had been issued to petitioner,

and that he was informed that the said record was not available; and therefore contended that there is no such order.

10. The counsel for petitioner then produced the original of the order passed by the 3rd respondent for perusal of the Court.

11. This court is satisfied that the 3rd respondent did pass an order on 02.10.2002 granting 'Occupancy Right Certificate' to petitioner; and the learned Government Pleader for Revenue, appearing for respondent nos.1 to 5, also did not dispute the same.

12. In this view of the matter, the proceedings dt.27.09.2010 of the 3rd respondent, having been issued in violation of principles of natural justice without notice to petitioner, is set aside, and the consequential proceedings No. B/1630/2016 dt. .09.2016 of the 4th respondent is also set aside.

13. Liberty is given to 6th respondent to work out his remedies in the appropriate forum.

14. Accordingly, the Writ Petition is allowed. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 20.12.2017

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