

THE HON'BLE SRI JUSTICE M. S. K. JAISWAL

WRIT PETITION No. 3092, 3967 & 19550 of 2008

COMMON ORDER:

These three writ petitions can be disposed of with this common order, since they arise out of a similar question of fact and law, and against the impugned orders passed by the 1st Respondent, vide Proceedings in Rc.35170/ 2005/ H.1, dated 19.12.2005 and its consequential orders passed by the 2nd respondent, refusing to transfer the membership in favour of the petitioners and to issue no-objection certificate so as to facilitate the purchasers of the plots from the original allottees to construct their houses.

2. Similar question of fact came up for consideration before this Court in various writ petitions, filed against the very same impugned proceedings in W.P.Nos.7162 and 8227 of 2006, which were disposed of this Court on 3rd March, 2011. In the said writ petitions, it is held that the impugned proceedings, which are issued by the 1st respondent, are clearly beyond the scope of the power of the Registrar of Cooperative Societies under Sec.4(2) of the A.P. Cooperative Societies Act, 1964 and accordingly this Court quashed the same. In the said judgment, this Court made the following observations:

“However, it is to be noticed that in exercise of powers under Section 4(2) of the Act, the Registrar is not empowered to record any findings ex parte, more so, when allegations are made about irregular allotment of sites to ineligible persons. When petitioners are the owners of sites, which are already transferred as per the records of the Society, it is not open to the Commissioner/ Registrar of Co-operative Societies, to record any findings, which will deprive the petitioners of such plots. It is also to be noticed that on similar set of allegations, when an inquiry was conducted earlier, no irregularities were noticed. In that view of the matter, and in the absence of issuance of notices to the affected parties, the Registrar is not empowered to issue directions as issued in the impugned proceedings, in exercise of powers under Section 4(2) of the Act. Further, it is to be noticed that during the pendency of the writ petitions, this Court passed interim orders for issuance of no objection certificates, and in compliance thereof, such no objection certificates were issued, based on which, petitioners have already obtained permissions from the competent authority and made constructions.

For the aforesaid reasons, as the impugned proceedings are issued in violation of the principles of natural justice and are beyond the scope of the power of the Registrar under Section 4(2) of the Act, the writ petitions are liable to be allowed and are accordingly allowed and the proceedings, dated 19th December 2005, issued by the 2nd respondent in Rc.No.35170/2005/H-1, are hereby quashed.”

3. The above said judgment was followed by this Court in a batch of writ petitions, bearing W.P.No.10219 of 2008 and batch, dated 10.11.2011.

4. A perusal of the above judgments clearly shows that the same is equally applicable to the present facts of the case.

Apart from that, the above referred judgments of this Court have become final. Therefore, following the judgments of this Court, referred to above, these writ petitions are to be allowed.

5. Accordingly, these writ petitions are allowed and the impugned orders of the respondents are hereby quashed, as prayed for. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

6th November, 2017
Kv

M.S.K.JAISWAL, J



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