

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.37715 of 2017

O R D E R:

Petitioner has filed this Writ Petition assailing the inaction of the 4th respondent in issuing final orders for conversion of the subject land from agriculture to non-agricultural purposes as sought by the petitioner in his application dt.30.03.2015 under the provisions of the Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006 (for short 'the Act').

2. Petitioner contends that he purchased the property from an ex-serviceman/assignee, who was assigned the subject property on 28.06.1992 under a registered sale deed dt.07.03.2015 executed by the daughter of the deceased/ex-serviceman, after a No Objection Certificate was granted for the said sale by the 2nd respondent(District Collector, Chittoor) vide proceedings D.Dis.No.E6/3180/2014 dt.11.07.2014, that he had applied to the 4th respondent under the above Statute seeking permission for conversion on 30.03.2015 and had also paid the requisite charges through challan on 03.12.2015; but the 4th respondent is not passing any orders thereon. He also stated that the ex-serviceman, who was issued DKT patta in 1992, had cultivated the land until his death on 16.05.2010, thereafter his wife and daughter cultivated the land, and after the death of the wife of

the ex-serviceman on 04.08.2013, the daughter, who succeeded to the property, sold the property to the petitioner.

3. Counter affidavit is filed by the 4th respondent adverting to a notice dt.27.01.2017 issued by him proposing to cancel the patta granted under ex-serviceman quota to the deceased/ex-serviceman on 28.06.1992. It is stated that the application of the petitioner was considered by the 4th respondent and that the 4th respondent came to the conclusion that it cannot be considered. Doubts are thrown now in the counter affidavit on the order passed by the District Collector, Chittoor granting NOC on 11.07.2014 to the petitioner's vendor, the daughter of the ex-serviceman, and it is now contended that there is no such NOC.

4. Since the NOC dt.11.07.2014 had been issued by the office of the District Collector, Chittoor, it is not open to the 4th respondent to now take a plea that there is no such NOC at all.

5. The Government Pleader for Assignment appearing for respondents further stated that the question, whether a person, who is assigned agricultural land can subsequently seek for conversion of the same under the Act for non-agricultural purposes, has been referred to Full Bench in W.A.No.239 of 2017. However, copy of the said order has not been produced before this court by the Government Pleader.

6. In my considered opinion, once the land, which was assigned to an ex-service man, is entitled to be sold by him after ten years as per G.O.Ms.No.279 dt.04.07.2016 and is sold, the property ceases to be government property. In the present case when there is an NOC issued by the District Collector, Chittoor permitting such a sale on 11.07.2014, and the purchaser after such purchase, 23 years after the assignment, intends to convert the land, the State is not entitled to object to the same.

7. Therefore, the respondents cannot now contend that it is not possible to grant permission to the petitioner for conversion of the land assigned to the ex-serviceman for non-agricultural purposes.

8. Accordingly, the Writ Petition is allowed; the action of the 4th respondent in refusing to consider petitioner's application for conversion of the subject land for non-agricultural purposes is declared as illegal, arbitrary and violative of Articles 14 and 300A of the Constitution of India as well as the provisions of the Act, and the 4th respondent is directed to consider the said application and accord permission to the petitioner within a period of six (06) weeks from the date of receipt of a copy of this order. No costs.

9. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

11th December, 2017.

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