

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.5942 of 2006

ORDER:

This writ petition is filed to declare the action of the respondent in publishing the notifications, dated 29.6.2005 and 28.7.2005 in the A.P. Gazette Extraordinary Part-II under Section 10(1) and Section 10(3) respectively of the Urban Land (Ceiling and Regulation) Act, 1976, as arbitrary and illegal and without jurisdiction and contrary to the Government Memo No. 44944/UC-II(2)/89-1, dated 19.5.1989 and a consequential direction is sought to set aside the notifications, dated 29.6.2005 and 28.7.2005, as illegal and arbitrary.

Brief facts of the case, so far as they are relevant for disposal of the writ petition, are as follows:

The petitioner is the pattadar and possessor of the land admeasuring to an extent of 7,567.62 sq. meters out of Survey No.42 (Part) situated at Guttala Begumpet village, Serilingampally Mandal, Ranga Reddy District, apart from the same, other open lands in different survey numbers of different villages, having inherited the same

from his father late Chandra Ramalingaiah, who purchased the said land from its pattadar through registered sale deeds; after coming into force of the Urban Land (Ceiling and Regulation) Act, 1976, the petitioner filed a statement in Form No.I under Section 6 (1) of the ULC Act in C.C.No.F1/10327/76 before the respondent in respect of 7,567.62 sq. meters in Sy.No.42 (part), apart from other lands i.e., 595 sq. meters in Sy.Nos. 66 (part), 68 and 69 of Yousufguda village and 4,052.02 Sq. Meters in Sy.No.100 of Miyapur village; on 26.6.1982, the respondent passed final order under Section 8 (4) of the ULC Act determining an extent of 7,162.62 Sq. Meters in Sy.No.42 (Part) of Guttala Begumpet village and 4052.02 sq. meters in Sy.No.100 of Miyapur village in total admeasuring to an extent of 11,214-64 sq. meters as excess land and accordingly, issued final statement under Section 9 of the ULC Act; thereafter, the petitioner moved an application dated 27.4.1989 to the State Government seeking exemption of the land to an extent of 11,214-64 sq. meters which was determined as excess land by the respondent; in response to the said application, the Government issued Memorandum, dated 19.5.1989 stating as follows:

“ The declarant has applied for grant of exemption. She is informed that according to the orders issued in G.O.Ms.No.733,

Revenue (UC.II) Department, dated 31.10.1988, the excess vacant lands upto 5 acres lying in peripheral areas of Urban Agglomerations have been exempted from the Urban Land (Ceiling and Regulation) Act, 1976 for sale of the lands as house site plots. As the land measuring 11,214-64 square meters in Sy.No.42 (P) situated at Guttala Begumpet (v) and in Sy.No.100 situated at Miyapur village of Hyderabad Urban Agglomeration, there is no need to issue separate orders exempting the land to the extent already covered by G.O.Ms.No.733, Revenue (UC.II) Department, dated 31.10.1988, from the provisions of Urban Land (Ceiling and Regulation) Act, 1976, provided the land in question is sold as house site plots after getting the layout approved by the Hyderabad Urban Development Authority”.

Thereafter, the petitioner and others who are the owners of the lands in Sy.Nos. 41 and 42 situated at Guttala Begumpet village, Serilingampally Mandal, Ranga Reddy District jointly applied for a lay out; the Hyderabad Urban Development Authority granted tentative lay out in the year 1989 in respect of the land belonging to the petitioner and others situated in Sy. Nos. 41 (part) and 42; on 18.5.1991, a final layout was also released by the Hyderabad Urban Development Authority; after obtaining the layout, the petitioner sold the land to various persons through registered sale deeds; as the respondent, without any authority published a notification in the A.P. Gazette

Part-II Extraordinary, dated 29.6.2005 under Section 10(1) of the ULC Act, in respect of petitioner's land admeasuring 7162.62 sq. meters, situated in Sy.No.42 (Part) of Guttlala Begumpet village, and also furnished another notification under Section 10(3) of the ULC Act in respect of above said land in the A.P. Gazette Part-II Extraordinary, dated 28.7.2005 stating that the said lands are deemed to have been vested with the State Government with effect from 30.7.2005; the State Government has granted exemption from the provisions of the ULC Act and the respondent has no jurisdiction to issue any notification under Section 10(1) or Section 10(3) of the ULC Act.

An interim direction was granted on 24.03.2006 in this case.

An affidavit has been filed by the Special Officer and Competent Authority, who is respondent herein stating that the Urban Land (Ceiling and Regulation) Act, 1976 has been repealed with the adoption of Urban Land (C&R) Repeal Act, 1999 in the State of Andhra Pradesh with effect from 27.3.2008 and G.O.Ms.No.603 Revenue (UC.I) Department, dated 22.4.2008 has been issued, duly publishing the same in A.P. Gazette Part-I on 22.4.2008 and on the repeal of the ULC Act, 1976, the Government issued certain instructions *vide* their Memo

No.17377/UC.1(1)/08-1, dated 24.4.2008; and as per the said instructions, the repeal of the principal Act, shall not affect the following conditions:

- i) *“the vesting of any vacant land under sub-section (3) of Section 10, possession of which has been taken over by the State Government or any person, duly authorized by the State Government in this behalf or the competent authority.*
- ii) *the validity of any order granting exemption under sub-section(1) of Section 20 or any action taken there under, not withstanding any Judgment of any Court to the contrary:*
- iii) *any payment made to the State Government as a condition for granting exemption under sub-section (1) of Section 20.”*

It is also categorically stated that insofar as the petitioner's land is concerned, the schedule land is not vested with the Government under Section 10(3) of the Act and possession of the land is not taken over under Sec. 10(6) of Principal Act. Hence, further action will abate in response to Urban Land (Ceiling and Regulation) Repeal Act, 1999.

In view of the facts and circumstances of the case and in view of the categorical statement made in the affidavit filed by the respondent herein stating that the subject land is not vested with Government under Section 10(3) of the Act, and possession of the land is not taken over under

Section 10 (6) of the Principal Act, the impugned notifications are set aside.

The writ petition is allowed accordingly.

Miscellaneous petitions pending if any, shall stand closed. No order as to costs.

KONGARA VIJAYA LAKSHMI, J

Date : 11/07/2018
Slk



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