

SRI JUSTICE S.V. BHATT

Writ Petition No.7844 of 2007

ORDER:

Heard Smt S.V.Indira, learned counsel for petitioner and learned Assistant Government Pleader for Revenue for respondents.

2. The petitioner filed a revision under Section 10 of the Land Encroachment Act, 1905 (for short 'the Act'), against the order of Joint Collector dated 31.12.2005, dismissing the appeal under the Act. Therefore, the issue substantially before the first respondent was under the Act.

3. The first respondent, while accepting the enhancement of extent of land from Ac.0.24 gts to Ac.0.39 gts., in Sy.No.27, keeping in view a few circumstances favouring the petitioner, directed as follows;

"In this case it is obvious that the mistake has been made in the office of Mandal Revenue Officer. This petitioner has suffered because of that mistake. Keeping in view of long possession of the petitioner since 1985 and his predecessor in interest since 1966, it would appear that Mandal Revenue Officer should have followed the prescribed procedure of Land Encroachment Act.

I feel, it is a fit case, where Government should take a lenient view as petitioner is a bonafide purchaser of this land and the mistake which is committed has been contributed also by office of Mandal Revenue Office, Serilingampally and regularize their purchase w.e.f. date of purchase under G.O.Ms.No.1601 dated 29.08.2005 as requested by petitioner, if other conditions of G.O. are fulfilled".

4. The second respondent, thereafter, rejected the request of petitioner vide impugned memo dated 13.09.2006. One of the circumstances adverted to in the memo is that G.O.Ms.No.1601 dated 29.08.2005 is not applicable to the case of petitioner. According

to revenue department, the land is lying vacant and no possession is recorded.

5. The counsel for petitioner firstly tried to persuade this Court that the directions issued by the first respondent ought to have been kept in mind while issuing the impugned memo from the record. She contends that the petitioner is entitled for regularization of possession of land allegedly in Sy.No.27, which is stated to be Government land, and prays for allowing the writ petition and remanding the matter to second respondent.

6. The learned Assistant Government Pleader opposes the writ prayer contending that the first respondent, while considering the legality or otherwise of order in the appeal passed under the Act, no direction to second respondent ought to have been issued. Even assuming that such direction could be issued by the first respondent, according to him, the finding of fact recorded by the second respondent is that G.O.Ms.No.1601 dated 29.08.2005 has no application. He finally contends that the G.O., on which the petitioner is relying upon, is not in operation with the change of policy of Government from time to time. He prays for dismissing the writ petition.

7. The counsel for petitioner, accepting the changed policy of Government, submits that liberty may be given to petitioner to apply under latest Government orders.

8. On the first contention of petitioner that he is entitled for regularization, this Court has no option, except to record that the petitioner, by applying for regularization, admits that the subject

property belongs to Government and his possession be regularized in terms of the policy as is evident from the impugned memo. The request for regularization was refused as the petitioner was not conforming to the requirements of G.O.Ms.No.1601 dated 29.08.2005. No ground is made out on the finding recorded by the second respondent. Therefore, the contention fails.

9. Adverting to second contention that liberty may be left open to petitioner for applying under the Government Orders, this Court is of the view that respective Government orders provide for applying for regularization subject to an individual conforming to the requirements of the Government policy. If the petitioner satisfies the requirements of subsequent policy issued by the Government, he can certainly work out such remedies. The present writ petition is concerned only with the legality of impugned memo and applicability of G.O.Ms.No.1601 dated 29.08.2005, and both the circumstances are held in favour of the respondents and against the petitioner as no ground is made out against the impugned memo.

10. The Writ Petition fails and is accordingly dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this petition shall stand dismissed.

S.V. BHATT, J

27th February, 2018

sj