

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.590 OF 2006

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus declaring notice No.3997/Old Grant/194 & 200/Q3L, dated 22.12.2005 issued by the 1st respondent as illegal, arbitrary and without any authority of law and consequently, to direct the respondents not to take any further action in pursuance thereof.

Heard Sri D.Madhava Rao, learned counsel appearing for the petitioner and Sri K.Lakshman, learned Assistant Solicitor General appearing for the respondents.

It is the case of the petitioner that the property bearing No.194, Nicholson Road, Tadbund, Secunderabad, in Sy.No.639, was gifted to him by Leslie Antony Pereira vide Gift Deed dated 8.1.1984. The donor of the property had acquired the same from Cajetan Frances Pereira vide registered sale deed dated 31.07.1950. The said Cajetan Frances Pereira had in turn purchased the said property from Rashid Shapurji Chenai vide registered sale deed dated 19.10.1931. The property in question is a purchased property and is not a grant or lease from the Government of India. While so, on 22.12.2005 the 1st respondent had issued the

notice to resume the property from the donor of the petitioner.

Challenging the said notice, the present writ petition is filed.

While admitting the writ petition, this Court granted interim suspension of the impugned notice on 6.1.2006 *vide* WPMP No.716 of 2006.

Learned counsel appearing for the petitioner contends that in Secunderabad Cantonment, there is no 'Old Grant property' and the functionaries of the 1st respondent have issued the show cause notice to the purchasers of the property under old grant. Learned counsel further submits that prior to 17th December, 1948, this part was ruled by Nizams and that this part of India is merged with Union of India on 17th September, 1948 and the Old Grant Rules of Cantonment were not applicable in respect of Secunderabad Cantonment. Learned counsel further contended that the petitioner could establish that his predecessors had purchased the property *vide* registered sale deed dating back to 19.10.1931 and hence, the question of the granting the land under Old Grant terms would not arise.

Learned counsel for the respondent contends that it is only a show cause notice and no prejudice would be caused to the petitioner if he submits his explanation and participate in the proceedings before the 1st respondent and the 1st

respondent would take all the objections into account and pass a reasoned order. Learned counsel further contends that show cause notices were issued to the petitioner as well as his predecessor/donor and that both the petitioner as well as his predecessor/donor can participate and put-forth their case and the 1st respondent is bound to consider the case of the petitioner as well as his predecessor/donor by duly taking into consideration the legal aspect and other relevant material.

Considering the above circumstances, this Court is of the view that if the petitioner submits his explanation to the show cause notice and participate in the proceedings before the 1st respondent, the 1st respondent after giving reasonable opportunity to the petitioner and after appreciating all the facts and legal grounds, shall take into consideration the registered sale deed dated 19.10.1931 relied on by the petitioner and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. It is needless to say that the respondents shall not take any coercive steps till a reasoned order is passed.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

