

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 11862 of 2018

Date :24.4.2018

Between:

M/s. Cascade Enterprises Pvt Ltd
Rep by its Director M Ganesh
Pet Basheerbad, Quthubullapur mandal
Ranga Reddy district
Regd office at Flat NO. 309 B-Block
Western Plaza Raidurg, Hyderabad

Petitioner

And

The State of Telangana
Rep by its Secretary,
Revenue Department
Secretariat, Hyderabad and others

Respondents

The Court made the following:



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ORAL ORDER:

Petitioner is aggrieved by the order of the Revenue Divisional Officer- 3rd respondent passed under A.P. Agriculture Land (Conversion for Non Agriculture Purposes) Act, 2006 directing the petitioner to pay conversion charges under the Act and penalty at the rate of 50 % on failure to pay the charges. Reading of the order would show that no explanation was filed to the show cause notice issued on 4.10.2017. After the order was received, instead of availing the remedy of appeal, petitioner filed representation on 23.3.2018 to the same authority and immediately thereafter this writ petition is filed.

2. When the matter is taken up, learned Assistant Government Pleader raised preliminary objection on maintainability of the writ petition on the ground that against orders of the third respondent, remedy of appeal is maintainable under Section 8 of the Act, 2006 and without availing the said remedy, this writ petition is filed, therefore writ petition is not maintainable.

3. Learned counsel for petitioner sought to contend that since petitioner filed representation and same was not considered, a direction to the third respondent would suffice in the interest of justice. He would further submit that larger extent of land is mentioned by third respondent, whereas land developed by him was only a small extent i.e., Ac. 2.20 guntas.

4. However, the Court is not inclined to entertain the writ petition, in view of the remedy of appeal provided under Section 8 of the Act, 2006. It cannot be said that the said remedy is not an effective and efficacious remedy in order to over-rule the objection of the learned Assistant Government Pleader and entertain the writ petition. All the aspects

agitated now in the writ petition and in the representation submitted on 23.3.2018 can as well be agitated before the Appellate Authority and it is for the Appellate Authority to go into the merits of the submissions made, look into the record and take appropriate decision as warranted by law.

5. At this stage, learned counsel for petitioner submits that he has developed only Ac. 2.20 guntas though he purchased land to an extent of Ac. 5.20 guntas as such conversion charges required to be paid are only for Ac. 2.20 guntas, he therefore pleads that pending appeal, he may be granted liberty only to pay amount quantified for the land to an extent of Ac. 2.20 guntas but not to the entire extent of land. The Court cannot enter into disputed questions of fact in a writ petition under Article 226 of the Constitution of India. Bare perusal of representation submitted by petitioner on 23.3.2018 itself would disclose that even according to petitioner conversion permission was applied long ago for the extent of Ac. 5.20 guntas. At one stage, it is stated that permission was applied for Ac.5.20 guntas for conversion and at another place petitioner also mentions that entire extent of Ac. 7.27 guntas in Survey No. 69, 70, 71 is declared as residential zone as per zonal regulations much prior to 2006, therefore the Act 2006 is not applicable. In other words, plea raised by the petitioner is for the development activities taken up prior to 2006 the provisions of Act, 2006 are not attracted, whereas, this issue was considered by the Division Bench of this Court in W.A. No. 702 of 2011 and batch dated 28.8.2015. Thus, it is required to be considered by the competent authority whether conversion had taken place prior to 2006 and whether provisions of Act, 2006 are applicable even if the area is covered by A.P. Urban Areas (Development) Act, 1975 in the light of view taken by Division Bench. It is contended by the learned counsel for petitioner that the permission was applied in the year 2006 and granted in the year 2008. Whether the development of land for non agricultural purposes and what extent of land was developed and is covered by the

provisions of the Act, 2006 and what are the charges petitioner is required to pay, are matters to be considered by third respondent. These are all issues that can be gone into by Appellate Authority. Prima facie, the relief sought for by the petitioner cannot be granted, since petitioner has effective and efficacious remedy in the form of appeal.

6. In the circumstances, granting liberty to the petitioner to avail the remedy of appeal under Section 8 of the Act, 2006 the writ petition is disposed of. Petitioner is permitted to raise all aspects as available in law. It is also open to the petitioner to file application seeking interim orders. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE:24-04-2018
TVK

P NAVEEN RAO,J



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