HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITON No.21028 of 2017

ORDER:

The case of the petitioner is that her husband filed declaration under Section 6(1) of the U.L.C.Act, 1976 in ULC.No.398/76-D before the 1st respondent, wherein he was directed to surrender/deliver the possession of the land in D.No.162/A3 of Ankireddypalem Village, Guntur Mandal, admeasuring an extent of 7748.25 Sq.Mtrs. After exhausting several remedies, petitioner made a detailed representation to the Government and the Government directed the petitioner to file an appeal afresh before the Appellate authority. Petitioner, then filed Appeal No.Auc2/GNT/8/2006 before the Director of Appeals, Office of the Chief Commissioner of Land Administration, Hyderabad, and the Director of Appeals allowed the appeal vide orders dated 27.06.2008, holding that all the orders viz., the Final Statement under Section 9 & Sec.10(5) of the Act were passed in the name of the dead person (Jagu Anjaneyulu, petitionr's husband) and hence they are all illegal and further held that since the ULC Act itself is repealed, all the proceedings are abated. Thereafter, the special officer also issued NOC dated 10.07.2008 declaring that the land in D.No.162/A3 of Ankireddypalem Village is not hit by the provisions of the ULC Act, 1976, and petitioner is entitled to make further negotiations. Then the petitioner made a representation to the respondents to

handover the land of 7748.25 Sq.Mtrs. in D.No.162/A of Ankireddypalem to her. As no action is being taken, present writ petition is filed.

The 1st respondent filed counter stating that one Sri Jagu Anjaneyulu (petitioner's husband) filed declaration under Section 6(1) of the ULC Act, 1976; that draft statement was issued on 31.10.1980 computing 9748.25 Sq.Mtrs. and after allowing 2000 Sq.Mtrs. towards retainable land, an extent of 7748.25 Sq.Mtrs was declared as surplus; that thereafter order under Section 8(4) of the Act, dated 24.12.1980, was issued confirming the draft statement; that subsequently final statement dated 31.01.1981 was issued directing the declarant to surrender 7748.25 Sq.Mtrs.; and that Jagu Anjaneyulu filed Appeal No.GNT.11/92 and the same was dismissed vide proceedings dated 24.01.2001. The Government rejected the exemption application filed by the declarant in their Memo No.106059/UC.I, dated 23.11.1993. Thus, the Surplus land of 7748.25 Sq.Mtrs. in D.No.162/A3 of Ankireddypalem village was taken over and handed over to Mandal Revenue Officer for safe custody on 06.08.1995. Thereafter, Notice under Section 11(8) also issued on 04.05.1996 to the declarant and at that stage, the Government issued G.O.Ms.No.166 Revenue (UC.I) Department, dated 03.03.2001 directing the Special Officer to handover the surplus land to the concerned UDA Authority to

dispose them in public auction. In pursuance to the above G.O., the surplus land was handed over to the VGTM UDA on 12.12.2004. During the proceedings the declarant died and his wife (petitioner herein) filed WP.No.21207/2003 and the same was dismissed on 08.03.2004. Thereafter, the petitioner filed appeal before the Commissioner of Appeals. While the matter stood thus, the Government of Andhra Pradesh has repealed the ULC Act, 1976 on 27.03.2008. It is further stated that statutory action reached up to Section 10(6) of the ULC Act and the surplus land was taken possession by the 1st respondent and handed over to Mandal Revenue Officer, Guntur on 16.08.1995 and subsequently, the land was handed over to VGTUDA, Vijayawada (now APCRDA) on 09.10.2003 under proper acknowledgment. It is also stated that the petitioner has not mentioned about the previous litigation which resulted in handing over the subject land to the 2nd respondent; that the order of Appellate Authority has no bearing on the present case; and that as on the date of Act was repealed, the litigation was pending before the Appellate Authority, and only after the Act was repealed, the said order was said to have been passed by the Appellate Authority on 27.06.2008, where as ULC Act was repealed on 27.03.2008; and that the alleged NOC issued by the 1st respondent does not create any right on the petitioner.

Heard Sri P.Sri Raghuram, learned senior counsel for the petitioner.

Learned Assistant Government Pleader for Assignments submits that possession was already taken before the Act is repealed; that when once possession is taken before repeal of the enactment, question of abatement of proceedings does not arise under Urband Land Ceiling Act; and that respondents are contemplating to challenge the appellate order dated 27.06.2008.

In this case it is to be seen that the appeal filed by the petitioner in ULC Appeal No.Auc/2/Gnt/8/2006, is allowed by the order dated 27.06.2008 and the same is not in dispute wherein the appellate authority gave a clear and categorical finding which reads as follows;

> "16. Heard the arguments and perused the connected records and the other material papers placed before this Court. The lower court record shows the declarant was died before issuance of the notice u/s.10(5) of the ULC act, and the hearing opportunity was not given to the wife of the declarant as per the provisions of the Act. And also as held by the apex Court and the Hon'ble high Court of Andhra Pradesh passing the orders u/s.8(4) is mandatory even the declarant was not held any objections for the draft statement. So that all the orders in the final statement U/s.9 and Sec.10(5) of the act was passed in the name of dead person is illegal.

17. At this stage while the matter is pending before this Hon'ble Court, the Government of Andhra Pradesh was repealed the Urban Land (Ceiling and Regulation) Act, 1976 and adopted the Urban Land (Ceiling & Regulation) Repeal Act, 1999. By G.O.Ms.No.603 Revenue (UC No.22nd April, 2008).

18. By virtue of the above G.O. Urban Land Ceiling Regulation Act, 1999 (Central) Act 15 of 1999 shall come into force in the State of Andhra Pradesh with effect from 27.03.2008. So that this court has no need to look into the merits of the case and by the virtue of the above G.O.Ms.No.603 Revenue (UC No.22nd April, 2008). This appeal is disposed as aborted."

The appellate order is passed in the year 2008 and the counter is filed in the year 2018. As on today, no appeal is filed against the order dated 27.06.2008 in ULC Appeal No.Auc/2/Gnt/8/2006. When once the order is passed on merits and the same has become final holding that proceedings were initiated against the dead person, the subsequent acts of proceedings including issuance of G.O.Ms.No.332, dated 15.03.2007 cannot stand, and accordingly the same is nullified by the Appellate Authority vide order dated 27.06.2008.

As proceedings initiated under the Act itself are aborted by virtue of the orders passed by the appellate authority, and as long as the appellate order is subsisting, the subject land cannot be included in the list of prohibited properties. As

such, writ petition needs to be allowed and since it is also stated in the writ petition that the petitioners have filed representation before the Joint Collector for handing over subject lands, the 1st respondent is obligated to consider the same for hading over possession of the subject land.

Accordingly, the writ petition stands allowed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

27.12.2018
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