

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Writ Petition No.38494 of 2016

ORDER:

The writ petitioners are Okya Engineering Constructions Pvt.Ltd. represented by its Director B.Sudarshan Reddy and three more individuals viz; G.Surender Reddy, G.Sudhakar Reddy and G.Manjula Reddy. The respondents to the writ petition are the Hyderabad Metropolitan Development Authority (for short, 'the HMDA') represented by its Commissioner, Hyderabad, the Revenue Divisional Officer(for short, the RDO'), Malkajiri Division, Rangareddy District, State of Telangana represented by its Principal Secretaries of Revenue, and Municipal Administration and Urban Development(for short, 'MA&UD'), Hyderabad. The prayer in the writ petition reads as follows:-

"To issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st Respondent imposing conditions to release the final layout by its Letter No.9285/ MP2/ Plg/ HMDA/ 2003 dated 23.06.2016 and the action of the 2nd Respondent demanding the conversion tax of Rs.65,34,000/- unilaterally by its Letter No.L/ 2016/ 2016 dt.04/ 10/ 2016-10.10.2016 without any legal sanctity as unjustified, arbitrary, unlawful, irregular and illegal, and further be pleased to pass such other order(s)".

2. The supporting affidavit averments to the writ petition vis-à-vis the oral submissions are that one B.Sudarshan Reddy being the Director of the 1st petitioner-Company and also agreement-cum-General Power of Attorney holder of petitioners 2 to 4, submits on behalf of all the petitioners that the action of the 1st respondent insisting and directing the petitioners to submit No Objection Certificate(for short, 'the NOC') from the Collector/ RDO by its Letter No.9285/ MP2/ Plg/ HMDA/ 2003, dt.23.06.2016 to release final layout (typographical error '2003' instead of '2007') and the 2nd respondent demanding the conversion tax amounting to Rs.65,34,000/- unilaterally by his Letter/ Memo No. L/ 2016/ 2016, dt.04.10.2016 – 10.10.2016 against the provisions of the A.P. Agriculture Land (Conversion for non-agriculture purposes) Act, 2006 (for

short, 'the Act 2006') and the Rules, 2006 made therein arbitrarily without any legal sanctity. The Act complained of the respondents herein is nothing but alleged mocking the very provisions of the A.P. Urban Area (Development) Act, 1975 (for short, 'the Act, 1975') and against the spirit of legal governance. The facts of the case are that the petitioners are the absolute owners and in possession of the Lands/ Stes in Sy.Nos.48,50 and 51(Part) of Turkapally village, Ranga Reddy District. Earlier the petitioner herein on 09.07.2007 applied by paying the processing fee with the then Urban Development Authority-UDA (later taken over by the R.1) for permission of layout u/ secs.13 and 14 of the Act, 1975 to use the above said agricultural lands for residential purposes as per the Zonal Development Plan of the Kukatpally Zone. The UDA after examination of the application asked the petitioners for revised plans and other by its letter No.9285/ MP2/ Plg/ H/ 2007 dt.28.07.2007 etc., and after coming into existence of the Act, 2006, the R.1 by its letter No.9285/ MP2/ Plg/ H/ 2007 dt.19.03.2007 asked the petitioners to get NOC from Hakeempet Air Force Authority and petitioners complied the same by its letter dt.05.01.2009. It is further submitted that earlier the R.1 by its 9285/ MP2/ Plg/ H/ 2007 dt.14.11.2008 asked the petitioners to file revised plans apart from insisting the petitioners to produce/ submit NOC from the Collector/ RDO for conversion of Agriculture to non-agriculture and the petitioners filed W.P.No.27863 of 2008 and this Court by its interim orders dt.23.12.2008 in WPMP No.36524 of 2008 directed the R.1 not to insist for NOC from RDO and release the final layout subject to the result of the Writ Petition by filing an undertaking with the R.1 which was complied by the petitioners on 07.01.2009. The R.1 issued a letter No. 9285/ MP2/ Plg/ H/ 2007 dt.08.06.2009 for extension of time for payment of development

and processing charges. The petitioners due to the recess in real estate and Telangana Agitation and other changed their plan of development and filed a letter dated 25.04.2013 with the R.1. Earlier the State Government issued G.O.Ms.No.178 MA,dt.23.03.2000, through the R.3 in exercise of its powers conferred by sub-section(2) of Section 12 of the Act, 1975, on behalf and by order and in the name of the Governor of AP declaring the draft variation to the Zonal Development Plan for Kukatpally Zone of non-municipal area sanctioned in G.O.Ms.No.209 MA, dt.25.04.1986 from the Conservation Use Zone to be designated as Residential Use Zone by this GO from 23.03.2000. The lands/ sites in Turkapally village of the petitioners in question before this Court falls in Block-IV of the above said G.O.Ms.No.178 MA dt.23.03.2000 by which date the Conservation Use Zone was designated as Residential Use Zone and the provisions of the Act, 2006 has no application as notified by the GOs. Without proper legal sanction or sanctity under any of the provisions of law enacted for the purpose but for very strange and unlawful and arbitrary direction of the R.1, the petitioners have suffered. The provisions of the Act, 2006 shall not apply to certain lands u/ sec.7 of the Act. The R.1 by its letter No.9285/ MP2/ Plg/ H/ 2007 dt.05.08.2013 insisted the petitioner for NOC from the Collector/ RDO for conversion of agriculture to non-agriculture and the petitioners filed a W.P.No.24092 of 2013 and this Court by its interim orders dated 19.08.2013 in W.P.M.P.No.29629 of 2013 directed the R.1 not to insist for NOC from RDO and release final layout subject to the result of the W.P. by filing an undertaking with the R.1. The petitioners filed the interim orders before the R.1 by its letter dt.05.10.2013 and later the Court permitted the petitioners to appeal against its final orders passed, mentioning that the petitioners raised several issues and can be agitated

before the appellate Court. The respondents by its letter 9285/ MP2/ Plg/ H/ 2007 dt.20.12.2013 with some other instructions demanded the petitioners to pay the development and processing charges amounting to Rs.21,95,393/- less Rs.5,00,000/- initial payment made by the petitioners by challan No.8492/ 2009,dt.29.08.2009, which the petitioners remitted of Rs.7,50,000/- by challan No.27677/ 2013 dt.31.01.2014 and Rs.9,45,393/- by RTGS UTR No.SYNBH14136385768 on 16.05.2014 amounting to Rs.16,95,393/- apart from the initial payment of Rs.5,00,000/- made on 29.08.2009, thereby the complete development and process charges amounting to Rs.21,95,393/- paid to the R.1 and intimated to the R.1 by its letter dt.16.05.2014 which was acknowledged later by the respondent. Later the R.1 informed to the petitioners that their proposals were technically approved and forwarded to the Deputy Commissioner, Alwal Circle, GHMC, Alwal, Panga Reddy District for taking further necessary action as per the powers delegated to the Local Authority' by its letter No.9285/ MP2/ Plg/ H/ 2007 dt.25.08.2014. The Deputy Commissioner, GHMC, Alwal Circle issued the proceedings by its letter No.418/ TPS/ Cir. 16/ NZ/ GHMC/ 2014 dt.09.01.2015. The petitioners have completed all the development works in accordance with the directions of the HMDA and the GHMC in all respects and informed the R.1 by its letter dt.16.12.2015 requesting the R.1-Authority to release final approval of the lay out. Meanwhile the Government of Telangana announced its policy under Sec.101 of the AP Re-organisation Act, 2014(Central Act No.6 of 2014) adapted the Act, 2006 which was in force as on 01.06.2014 with some modifications apart from reducing the tax for such land conversion in the interest of the development of the Real Estate by issuing G.O.Ms.No.4(Revenue) Lands Matters Department,dt.05.01.2016

and also issued the Gazette Notification on the same day and the petitioners thereby filed an application dt.28.01.2016 with the R.2 as per the provisions of the Act, 2006 along with all material papers, documents including the copy application,dt.09.07.2007 made to HUDA apart from the copies of record of the HUDA, HMDA & GHMC and brought to his notice that the petitioners already converted the agricultural land to non-agricultural purposes by 09.07.2007 and further proceeded with the development of land vide draft layout permission of the R.1 etc. The R.1 considering compliance letter,dt.16.12.2015 of the petitioners to release final approval of the layout, directed the petitioners herein to submit NOC from the Collector/ RDO for conversion of agriculture land to non-agriculture as per the Act,2006 and comply another condition to release the final layout by its letter No. 9285/ MP2/ Plg/ H/ 2003 dt.23.06.2016. Meanwhile the Tahasildar, Malkajgiri Mandal, Ranga Reddy district inspected the subject land premises of the petitioners and made enquiries and collected the material papers from the petitioners on the directions of the R.2 and submitted a report to the R.2 by her letter No.3/ 2572/ 2016,dt.09.09.2016. The R.2 in accepting the deemed conversion of the subject lands of the petitioners by consideration of the report of the Tahasildar, Malkajgiri Mandal, demanded the petitioners Rs.65,34,000/- i.e. 2%on basic value of the subject lands along with 50% penalty to issue NOC by his Letter/ Memo No.L/ 2016/ 2016,dt.04.10.2016-10.10.2016 which is nothing but illegal, arbitrary and against the enacted provisions of the NALA Act and Rules 2006 made therein. The R.2 instead of taking the basic value of the subject lands being agricultural to calculate on the basic value in acres of land of agriculture (to be maintained by the Registrar of Assurances, Government of Telangana) wrongly calculated on the basic value of residential flats in

sq.yards cost in the said area of the subject lands and thereby arrived arbitrarily to an amount of Rs.65,34,000/- including penalty of 50% which is nothing but non-application of mind by erroneous interpretation of the various laws and rules made thereunder. It is further submitted that the subject lands have to be valued before conversion rate and not on basic value of post-conversion rate prevailing in the area. The petitioners also filed basic market value of each acre of agricultural land of the petitioners in 2007-08 maintained and issued by the Joint Sub-Registrar concerned. The petitioners invested huge expenditure in developing the subject lands and paid all the development and processing charges to the R.1 and in all odd situation admittedly the conversion tax under the provisions of the said NALA Act amounting to Rs.10,00,000/- and 50% penalty on the deemed conversion by the application dt.09.07.2007 made with HUDA amount to Rs.5,00,000/- under the provisions of said Act which this petitioners are ready to deposit on the directions of this Court in order to curtail the losses due to the delay in the project for the release of the final layout by the R.1 without insisting the NOC from the RDO pending disposal of this writ petition. Thus, the unreasonable directions of the respondents are not sustainable, the lands in question are falling in the residential use zone as already earmarked, declared and notified by the then Govt. of A.P. by the Zonal Development Plan for Kukatpally Zone of non-municipal area sanctioned in G.O.Ms.No.178 MA dated 23.03.2000 from the Conservation Use Zone to be designated as Residential Use Zone by the GO mentioned above from 23.03.2000. It is further submitted that denial of the permissions against the sanctity of law as called by the respondents is highly irregular, unjustified and illegal. The act of the respondents depriving the petitioners from using their property is against Art.300-A

of the Constitution of India and fundamental rights. The act of the R.2 demanding conversion tax and penalty amounting to Rs.65,34,000/- unilaterally against the provisions enacted is nothing but arbitrary and illegal. All the above authorities are Statutory Authorities and the respondents are part and parcel of the very same government. Hence this writ petition.

3. The counter affidavit of HMDA-R.1 through the Director-1 in Planning Division of R.1 speaks that they are following provisions of HMDA Act 2008 and spirit of Act, 2006 on the application of the petitioners, dt.09.07.1997 for approval of residential lay out for Group Housing under Gated Community in an extent of Ac.10.33guntas in respect of Sy.No.48(P), 50 and 51 of Turkapally village, the then Ranga Reddy district. However, as per the Act, 1975 for developing land into residential area, the petitioners did not comply with the requirements in paying development and process charges but later came forward with a request dt.28.04.2013 to revise the lay out as residential lay out for open plotted development for which the R.1 by letter dt.14.11.2008 informed to submit NOC under Act, 2006 that was not complied properly and the petitioners cannot invoke G.O.Ms.No.178,dt.23.03.2000 which has no application to the Act, 2006, as well as in payment of conversion charges for usage of agricultural land for non-agricultural purposes. The W.P.No.24093 of 2013 was dismissed on 25.11.2015 in view of the earlier Division Bench in W.A.No.702 of 2011 and batch and consequently the interim order granted in WPMP No.29629 of 2013 in W.P.No.24092 of 2013, dt.19.08.2013 also dismissed. The R.1 directed the petitioners to pay Rs.16,95,393/- towards balance developmental charges and process charges duly instructing the petitioners to produce documents including conversion certificate from the RDO in respect of the non-agricultural

purposes before releasing the draft lay out. The petitioners submitted a letter dt.16.05.2014 giving details of payment made to the HMDA. It is thereby the R.1 sent technical approval of layout to the Deputy Commissioner, GHMC, Alwal Circle, being the local authority under whose jurisdiction the layout falls for releasing final lay out. The petitioners to produce land usage conversion certificate which is mandatory as per Act, 2006 and the RDO is competent authority therein to issue such certificate and there is no wrong in asking the same. The Government of Telangana issued G.O.Ms. No.4 Revenue (Land Matters) Dept. dt.05.01.2016 modifying the payment of 9%to 3%of basic value of land towards conversion charges and modified in respect of area covered by the GHMC from 5%to 2%of basic value concerned. It is the revenue Department represented by the R.2 and R.3 to answer and thereby the petitioner has to produce NOC from the RDO with other documents and to pay the land conversion charges under the Act, 2006 and the allegation of land already converted by the petitioners from agricultural to non-agricultural purposes is not tenable. The R.2-cum-RDO is empowered u/ sec.6(2) of the NALA Act, to collect conversion charges along with 50%penalty over and the above the conversion charges which cannot be questioned as arbitrary as such the question of releasing the final lay out without production of NOC does not arise.

4. The R.2-RDO Malkajgiri Division on behalf of the respondents 2 and 3 filed counter affidavit in the main writ petition with prayer of vacating interim order of stay granted in W.P.M.P.No.47431 of 2016 by WVMP No.2582 of 2017, opposing the MP prayer submits that as per the provisions of the Act, 2006 no agricultural land shall be put to non-agricultural purposes without prior permission of the competent authority being the RDO concerned and u/ sec.6 of the Act says if

agricultural land has been put to non-agricultural purposes without obtaining permission required by Section 3 of the Act, the land shall be deemed to have been converted into non-agricultural purposes and liable for payment of conversion fees with penalty of 50% of amount levied on it. However, the State of Telangana brought amendment vide G.O.Ms.No.4,dt.05.01.16 to some of the provisions of the Act, 2006 and as per the G.O.No.4 supra basic value reduced from 10% to 2%. On petitioners application dt.28.01.2016 for conversion of subject land from agricultural to non-agricultural purposes, the then Tahasildar concerned (by then at Malkajigiri, now at Alwal mandal) after due enquiry submitted report that the land was already converted from agricultural to non-agricultural purposes by plotting stones as visible on the land and based on the report, a demand notice under Rule 6 of the Rules 2006 for payment of conversion fees which include the regular conversion fee and also penalty of 50% for the converting said land without taking prior permission to issue in demanding total amount of Rs.65,34,000/- which is the subject matter of impugment and its suspension covered by the interim order, dt.09.11.2016 in W.P.M.P.No.47431/ 16 supra whereunder it is observed that on prima facie reading of the provisions of Section 4 and 6 of the Act and Rules made thereunder, it appears that what is levied on the petitioners is contrary to the said provisions, the petitioners are liable to pay only conversion fee on the value of agricultural land and penalty that may be imposed thereon and issued following directions:-

- (i). Subject to petitioners depositing the amount in terms of sections 4 and 6 of the Act and the penalty that may be levied on them, treating the status of the land as agricultural land, the Tahsildar/ Special Grade Deputy Collector and Revenue Divisional Officer, shall issue NOC subject to fulfilment of any other conditions, under the Act within two weeks from the date of payment of amount.

(ii). On production of NOC under the Act, the layout approval application shall be processed by the HMDA for grant of final layout subject to fulfilment of the second condition.

(iii). Petitioners shall give an undertaking to pay the balance amount, in case the decision is rendered against the petitioners in the writ petition.

to implement the interim orders, the Writ petitioner addressed a letter to the Tahasildar, Alwal to furnish market value of subject land and the Tahasildar informed that as per the information received from Sub Registrar, Vallabnagar, there is no agricultural value for any land in said village available as per market value guidelines but for the value of the subject land is at Rs.4,500/- per sq.yards and composite value for flats is Rs.1500sq.feet and if the petitioners prayer is to pay by that value, NOC can be issued pursuant to the interim order. However the writ petitioner offered to pay only Rs.15,00,000/- as against the total demand of Rs.65,34,000/- on the ground that they paid a requisite amounts in HMDA in the year 2007 for getting approval of the lay out and the petitioners offered to pay said amounts as per agricultural market value appearing in the Registers in the year 2007 which is in fact totally misconceived. Said plea of the writ petitioner thereby cannot be allowed to cause loss to the exchequer and in the interest of revenue of the State and more particularly for the fact that the Act, 2006 came into force w.e.f.02.01.2006 and for the subject land for conversion from agricultural to non-agricultural, the petitioner made an application for conversion of the subject land i.e. Ac.10-00guntas and thereby the petitioner has to pay 2% of the basic value of the market value existed as on that date along with penalty as per the G.O.Ms.No.4 with modifications to the original percentage under the Act, 2006 and the contention contra to it of the writ petitioner of the subject land earmarked for residential use in the zonal development plan under the Act, 1975 and that they have already obtained permission from

Kukatpally Zone are quite irrelevant as the regulations under the Act, 3 of 2006 are totally different, to the above and the Act, 2006 is having overriding effect over the other laws. The DB of this Court in WA No.702 of 2010 and batch by upholding the Single Judge expression in the batch matters observed that :-

a) It shall be competent for the Urban Development Authorities or the Local Authorities, as the case may be, to insist on submission of clearance/permission under the 2006 Act as a condition precedent for releasing of layouts, and

b) The land has been put to non-agricultural use before the 2006 Act came into force, such clearance/permission shall not be insisted.

c) Conversion of land into Non-agricultural use under the provisions of Act 3 of 2006 is necessary even if the land is covered by Master Plan and sanction of layout by the Development Authority under the provisions of Act 1 of 1975.

5. It is contended therefrom of the petitioner cannot contend that NOC is not required from the RDO-competent authority under the Act, 2006 by payment of the conversion charges with penalty if any of the agricultural purposes to non-agricultural purposes of the land into residential area with layout for its final approval by R.1-HMDA. Thereby the interim order is liable to be vacated and the writ petition is liable to be dismissed is the sum and substance of the contention of the R2 and 3.

6. Heard both sides and perused the material on record including the W.A.No.702 of 2010 and batch operative portion covered by clauses 'a to c' supra; prior to that, it is observed by the Division Bench that u/ sec.6 of Act, 3 of 2006 penalty for recovery of land conversion Act, with fine is provided, does not mean Government with a view to synchronize the functioning of all departments and prevent land revenue cannot call upon Urban Development Authority to insist production of NOC from RDO under the Act, 3 of 2006. The UDA construing strictly gets jurisdiction to entertain application for which conversion tax is paid

under the Act 3 of 2006 and NOC can be justified by this reason as well and the insistence at best could be treated a concomitant. The authorities can certainly insist upon NOC from applicant for processing the application made u/ sec.14 of the Act but all 75 and for the few we have taken on questions 1 to 3, no exception to it found against the impugned common order of 28.04.2010 in dismissing the appeals by its confirmation with disposal as supra.

7. From the writ petition affidavit referred supra particularly from para-5, it speaks the petitioners on 09.07.2007 applied by paying process fees with UDA for permission of lay out u/ sec. 13 and 14 of the Act, 1975 to use said agricultural land for residential purposes as per zonal development plan of Kukatpally zone vide amendment No.823, dt.09.07.2007 and the UDA after examination of the application, by letter dt.28.07.2007 asked the petitioner for revised plan etc., and by another letter dated 19.03.2008 asked to get NOC from Hakeempet Air force authority and the same were complied with. By letters dt.05.01.2009 and 14.11.2008, the UDA asked the petitioners to file revised plan apart from insisting to submit NOC from RDO for conversion of agricultural to non-agricultural purposes. Then the petitioner filed W.P.No.27863 of 2008. In WPMP No.36524 of 2008 pending disposal of the writ petition the High Court directed not to insist NOC by RDO to release the final lay out, subject to final result of the writ petition, on filing undertaking by the petitioner with R.1. The petitioner accordingly applied by 07.01.2009, from which R.1 issued letter dated 08.06.2009 for extension of time for payment of development and process charges. Because of recess in real estate and agitations in the State, the petitioner changed the plan of development and filed letter dt.25.04.2013 with R.1. Earlier State Government issued G.O.Ms.No.178,

dt.23.03.2010 to RDO as per Section 12(2) of Act, 1975 declaring draft verification of zonal development plan for Kukatpally zone of non-municipal area sanctioned in G.O.Ms.No.209,dt.25.04.1986 from conversion use zone to residential use zone and the Turukapally lands fall under block-4 of GO Ms.No.178 supra. In fact, the Division Bench order in the batch of Writ Petitions has answered to it. The Writ Petitioner's contention of Act, 3 of 2006 has no application thereby is untenable. Here the issue in the writ petition is not questioning the imposing of conditions to release the final lay out but for the insistence of NOC.

8. U/ sec.2 sub-section-c of the Act 3 of 2006 the basic value means the land value entered in the Basic Value Register notified by the Government from time to time and maintained by the Sub Registrar. Section 3 speaks of procedure for application for conversion of agricultural land for non-agricultural purposes. The RDO is competent u/ sec.4 of the Act, for conversion of agricultural land into non-agricultural purposes on enquiry after calling for objections if any and by inspecting or cause inspecting the land for such conversion is objectionable or not and take cognizance of the Master Plan and such other land use restrictions in its determining and thereafter proceed to pass orders either to approve or reject the proposed conversion. Section 6 speaks of mode of payment of conversion fees as per the basic value notified from time to time by the Government for the land as on the date of application to take into account. Section 8 speaks of penalty that in case it comes to the notice of competent authority of any agricultural land was converted to non-agricultural purposes without obtaining prior permission by owner or occupant of agricultural land, it shall be deemed to have been converted into non-agricultural purposes

and auction shall be taken to levy for such lands, such penalty as prescribed u/sec.6 of the Act. The penalty and percentage of the amount payable are modified by the G.O.No.4 supra.

9. From this background, coming to the interim order in the present Writ Petition in W.P.M.P.No.47431 of 2016 supra, it is observed that the amount levied of Rs.65,34,000/- towards conversion fees as well as penalty under the Act 3 of 2006 from reading of Sections 4 and 6 of the Act and Rules made thereunder appears contrary to the provisions, though the petitioners are liable to pay only conversion fee on the value of agricultural land and penalty that made by imposing and thereby given directions (i) to (iii) supra.

10. From the above, the interim order no way requires either to be vacated or modified, nor it is inconsistent with the order of the Division Bench relied on by R.2 and R.3 with their counter affidavit filed along with vacate petition of the interim order referred supra.

11. From this, the basic question herein is what is the value of the agricultural land as on the date of the application for conversion entered if any in the Basic Value Register of the Sub Registrar. In this regard, pursuant to the interim order supra, the petitioners gave their undertaking affidavit before the RDO, Medchal, in November, 2016 referring to the interim order in W.P.No.47431 of 2016 and the undertaking is consequent to it. Pursuant to the interim order supra dt.09.11.2016, the petitioners remitted conversion tax of 10lakhs with 50% penalty of 5lakhs, total of 15lakhs by referring to two challan Nos.205861 and 205860, dt.15.11.2016 and sought for release of NOC in compliance with the interim order. There is no dispute as to the receiving of the said amounts covered by the above challans and addressing of the letter to the RDO by the petitioner consequent to that,

with said undertaking vide letter dated 26.11.2016 and reminder dt.09.01.2017 and another letter, dt.24.08.2017 acknowledged by the office of the RDO on 24.08.2017 even date and the additional undertaking of the petitioners before the RDO on the stamp paper of Rs.100/- dt.24.08.2017 acknowledged by RDO on 23.09.2017. It speaks the additional undertaking supra, dt.24.08.2017 is given pursuant to the interim orders pending final disposal of the writ petition, by assuring RDO that they will pay the conversion charges in sq.yards or in acres rate as per law subject to the final decision of the writ petition, hence to issue NOC in compliance with the interim order dt.09.11.2016 in W.P.M.P.No.47431 of 2016. Petitioners also addressed a letter to the RDO with that date 23.09.2017 and reminder issued on 01.02.2017 acknowledged by the office of RDO on 07.12.2017 stating the above facts. The petitioners also offered the RDO, bank guarantee of Rs.50,34,000/- against alleged balance of demands awaiting final order in Writ Petition No.38494 of 2016(present writ petition) pursuant to the interim order supra dt.09.11.2018. The respondents did not comply with said interim order. Now it is not for enforcement of mere interim order, but for final adjudication of the very writ petition, the writ petition is taken up and heard both sides in the matrix of facts and law supra.

12. It is consequent to the petitioners' application supra for arriving the basic value of agricultural land by the date of application of the petitioners under the Act 3 of 2006 referred supra, the Tahasildar, Malkajgiri Division by letter dated B/249/2017 dated 04.03.2017 addressed to the RDO-R.2 herein and the relevant portion is at paras-3 to 5, which speaks in nutshell that a perusal of the detailed report of the erstwhile Tahasildar, Malkajgiri in File No.B/2572/2016 to the RDO, Malkajgiri, on 09.09.2016 shows that basic market value as on the date

of reporting i.e. on 09.09.2016 was mentioned as Rs.50lakhs per acre as per market value guidelines as on 09.07.2007, the day when the applicant filed approval for the tentative layout to the HMDA. As per the letter addressed to the Sub Registrar, Vallabh Nagar, Begumpet, dt.18.02.2017, the Sub Registrar, Vallabh Nagar, informed that there is no agricultural value for the village of Thurkapally as per the basic value register of their office as on date and the market value for residential houses is Rs.4,500/- per sq.yard and composite value for flats is Rs.1,500/-per sq.ft. and submitted copy of it (letter No.49/ 17 dt.20.02.2017 to that effect. In view of the same and as per the directions of the High Court's interim order dt.09.11.2016, request of the petitioners for conversion of land from agriculture to non-agriculture for the 10 acres of Turakapalli village in question of Alwal Mandal, it is mentioned as deserves to be considered for necessary action. Thus value of the agricultural land as per the said letter of Tahasildar to the RDO, dt.04.03.2017 supra, as per the Basic Value Register of the Sub Registrar, the basic market value as on 09.07.2007 was Rs.50,00,000/- (Rupees fifty lakhs only) per acre. However by the time of issuing letter by the Sub Registrar dt.20.02.2017 supra, there is no such acreage value because of the zone is developed with residential houses with flats and for residential houses basic value fixed is per sq.yards basic at Rs.4500/- per sq.yard of the site and per sq.ft. of flat at Rs.1500/-. It is the basic thing to keep in mind. However the fact remains that for agricultural land, sq.yard area value does not arise but for on acreage or in guntas or in cents, hence there is a basic value available of Rs.50,00,000/- per acre by July, 2007, the RDO, being the competent authority, has to fix the value by any enquiry in arriving the value of his own on estimation for agricultural purpose as on the date of the

application of the petitioners in the year 2016 under the Act 3 of 2006 and there is no provision to abdicate such responsibility of the R.2 in arriving value of agricultural land on acreage basis for the respective extents, that too when there is some basis for arriving from the agricultural land value as on July, 2007 was Rs.50,00,000/- (Rupees fifty lakhs only) per acre from the report of the Tahasildar to the RDO to consider with proportionate increase in value of agricultural lands after July, 2007 in later 7 to 8 years by the year 2016-17. Even taken for arguments sake what the Tahasildar, Malkajgiri reported of any stones or Peg marks fixed on land, for there is no any actual non-agricultural use with residential houses, that was noticed subsequent to the application of the petitioner in the course of inspection of Tahasildar in considering the nature of the land for arriving its value as, even as per Rule 6(iv) of the Rules made under the Act 3 of 2006 in case of deemed conversion, the date for the purpose of calculation of basic value shall be the date earliest of the following dates viz; date of detection of conversion by competent authority, date of entry in the village accounts by the Village Officer/ Panchayat Secretary or date of application by Owner/ Occupant and (with reference to the definitions particularly of Rule 6 Clauses-2 to 4 sub-clause 3 earliest date governed in the case of any date of application under Rule 6(iv)(3) earliest date, notify the basic value as on that date for the agricultural value in arriving 2% of basic value and 50% of penalty if any thereon, for the total sum payable for issuing NOC for release of the final lay out.

13. Having regard to the above and in the result, the Writ Petition is disposed of directing the R.2-the RDO to fix market value as on the date of application of the petitioner, for conversion of the agricultural land to non-agricultural purposes within 3 months from the date of

receipt of this order so that the petitioners have to pay the balance and in the meantime pursuant to the interim order that is made absolute, comply with the same by accepting the undertaking given by the petitioner with the amount so far paid to issue NOC for release of the final lay out.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:04.04.2018
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