

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.23959 OF 2018

ORDER:

The petitioner challenges notice Rc.No.651/2018/G/dated 23.06.2018 issued by 3rd respondent, as illegal and without jurisdiction.

The issue arises under A.P. Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006 (for short 'the Act'). The 3rd respondent through proceedings D.Dis.No.1398/2017 dated 19.12.2017 granted permission for conversion of agricultural land into non-agricultural purpose with a few conditions. The subject matter of the conversion proceedings is Ac.0.45 cents in Survey No.476/4 of Duppituru Village, Atchutapuram Mandal, Visakhapatnam District.

Lalam Demudamma/4th respondent herein filed writ petition No.10934 of 2018 challenging the conversion proceedings dated 19.12.2017 in this Court.

On 03.04.2018, the writ petition was disposed of as follows:

"The Writ Petition is accordingly disposed of at the admission stage without expressing any opinion on merits directing the appellate authority to examine the appeal filed by the petitioner, as expeditiously as possible, preferably within a period of six (6) weeks from the date of receipt of a copy of this order and after affording due opportunity to the fifth respondent, pass appropriate orders as warranted by law. There shall be no order as to costs."

The petitioner filed as one of the annexures the copy of appeal filed by respondent No.4 before the District Collector,

Visakhapatnam. The grievance of petitioner is that the proceedings dated 19.12.2017 are pending before the appellate authority. This Court in W.P. No.10934 of 2018 issued direction to 2nd respondent herein to pass final orders in the appeal. The 3rd respondent after issuing the proceedings dated 19.12.2017 becomes *functuous officio* and by referring to order of this Court in W.P. No.10934 of 2018, the notice ought not to have been issued and hence the same is illegal and without jurisdiction.

The Assistant Government Pleader submits that the notice apparently is issued by referring to the order of this Court. According to him, the order of this Court is clear and directs the 3rd respondent as well to conduct enquiry into the application filed by petitioner for conversion under the Act.

I have perused the record and taken note of rival submissions of the learned counsel appearing for the parties.

The petitioner challenges notice dated 23.06.2018 as illegal and without jurisdiction, for the 3rd respondent becomes functuous officio with the communication of proceedings dated 19.12.2017. The 3rd respondent was not assigned any responsibility by this court to reopen or re-examine the issue under the Act. Further once the conversion order is made and the same is subject matter of appeal before the 2nd respondent, the notice impugned in the writ petition *prima facie* appears to be illegal and without jurisdiction. Hence, the notice impugned in the writ petition is set aside. It is needless to observe that the issue pending in the appeal is to be independently considered and decided by the District Collector.

With the above observation, the writ petition is ordered as indicated above. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:16.07.2018

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