THE HON'BLE SRI JUSTICE A.RAJASEKHER REDDY

W.P.NO.32631 OF 2018

O R D E R:

This writ petition is filed to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in including the petitioner's land in an extent of Ac.2.50 cents in Survey No.142/1B, an extent of Ac.5.00 cents in Survey No.143/2B, 2C1 and 2C2 and an extent of Ac.5.13 cents in Survey No.144/1B of Kantheru Revenue Village, Tadikonda Mandal, Guntur District in the Prohibited Property Register as illegal, arbitrary and violative of Articles 14, 21 and 300-A of the Constitution of India and consequently set aside the same.

The brief facts of the case are as follows:

The land in an extent of Ac.2.50 cents in Survey No.142/1B, and an extent of Ac.5.13 cents in Survey No.144/1B, totalling Ac.7.63 cents of Kantheru Revenue Village, Tadikonda Mandal, Guntur District was acquired on behalf of VGTM UDA from the Associated Cement Company Limited by paying due compensation vide Consent Award No.1/2002 in Rc.No.364/2001, dated 26.12.2002. The said land was sold by VGTM UDA to Lingamaneni Estates Private Limited through auction cum tender along with various other extents of land covered by different survey numbers falling under three different revenue villages vide registered sale Deed No.1382 of 2004, dated 12.03.2004 and put in possession.

The 2nd respondent vide proceedings No.42/2001 E-1, dated 12.03.2004, had ordered alienation of Ac.2.15 cents in Survey No.143/2B, 2C (later sub-divided as 2C1 and 2C2) of Kanteru Village, Tadikonda Mandal on payment of market value for development of township to VGTM

UDA. Accordingly, the possession of the said land was transferred to VGTM UDA, who in turn sold the said property to M/s Lingamaneni Estates Private Limited vide registered sale deed No.1525 of 2004, dated 18.06.2004. In turn, M/s Lingamaneni Estates Private Limited sold the said lands by way of registered sale deed No.2698/2011, dated 23.05.2011 in favour of the petitioner. Thus, the petitioner had become the rightful owner of the above said lands and was put in exclusive possession of the said lands and therefore, it holds legal title over the said lands.

The 2nd respondent has absolutely no authority to include petitioner's land in the Prohibited Property Register. The powers vested in the 2nd respondent under Section 22-A is restricted to land described thereunder. As the classification of the land in question has been changed upon acquisition/sale of land, at the behest of/in favour of VGTM UDA, the predecessors in title, the claim of the respondents that the said land is a Government land does not stand to merit and the consequential action of the respondents prohibiting alienation of the said land is arbitrary and illegal.

Respondent No.4 filed counter reiterating that the subject property is in the list of prohibited properties as such same cannot be registered and petitioner has to approach competent authority for deletion of the land from the list of prohibited properties.

Heard learned counsel for the petitioner as well as the Assistant Government Pleader.

Learned Assistant Government Pleader produced written instructions, in which it is not disputed that the subject property is sold by VGTM UDA. In the written instructions, last paragraph reads as follows:

"As per records, available documents and as per the Charges List dated 26.12.2002, the Special Deputy Collector, Land Acquisition, VGTM UDA, Vijayawada in Award No.1/2002, dated 26.12.2012 has acquired the following lands on behalf of VGTM UDA, Vijayawada for sites, services and housing programme from ACC Mancherial Cement Works and the same was handed over by the Vice President, ACC Mancherial Cement Works and Power of Attorney Holder & taken over by the Special Deputy Collector (LA), VGTM UDA, Vijayawada on 26.12.2002 and in turn handed over to the Authorized Person, Deputy Estate Management Officer of VGTM UDA, Vijayawada on 30.12.2002.

Village, Mandal & District	R.S.No.	Extent
		Ac.Cts.
Kantheru Village	142/1B	2-50
Tadikonda Mandal	144/1B	5-13
Guntur District		
	Total :	Ac. 7-63 cts

Later the Vice Chairman, VGTM UDA, Vijayawada in proceedings Rc.No.A5-365/2001 dated 27.03.2003, has ordered that, M/s Lingamaneni Estates Pvt. Ltd., Vijayawada has participated in auction-cum-tender on 27.03.2003 for the purchase of lands in Survey No.142/1B for an extent of Ac.2-50 cents and in Survey No.144/1B for an extent of Ac.5013 cents and offered highest bid amount through tender for the above lands and also informed that, the lands will be transferred by the Registered sale deed, subject to bearing of Registration cost by the Firm after receiving payment in full. Later the Vice Chairman, VGTM UDA, Vijayawada has registered the above lands in favour of M/s Lingamaneni Estates Pvt Ltd., Vijayawada vide Doc.No.1382/2004 dated 12.03.2004 and later the above lands were purchased by M/s IJM-Lingamaneni Township Pvt. Ltd., Hyderabad from M/s LEPL Projects Ltd. (formerly known as M/s Lingamaneni Estates Pvt. Ltd.), Vijayawada Doc.No.2698/2011 dt: 23-03-2011. Now the lands are under possession and occupation of M/s IJM-Lingamaneni Township Pvt. Ltd., Hyderabad.

As the above lands are Patta lands (as per RSR) and acquired by VGTM UDA, Vijayawada through Land Acquisition and later sold away to M/s Lingamaneni Estates Pvt. Ltd., Vijayawada and then transferred to the present petitioner M/s IJM-Lingamani Township Pvt. Ltd., Hyderabad, the above lands may be considered for deletion from the prohibitory properties list U/s 22-A(1)(b) of Registration Act, 1908.

With reference to the Survey No.143/2C2B measuring an extent of Ac.2-15 cents of Kantheru (V), Tadikonda (M), the Vice Chairman, VGTM UDA, Vijayawada filed an application for alienation of the above land on payment of Market Value for development of Township and basing on the *application the then Mandal Revenue Officer, Tadikonda submitted alienation proposals vide Rc.No.7/04/B, dated 05-02-2004, which is classified as Donka Poramboke for development of Township. After the Revenue Divisional Officer, Guntur submitted alienation proposals to the District Collector, Guntur agreeing with the findings of Mandal Revenue Officer and for positive consideration for alienation of the said land.*

It is to submit that, with reference to the application filed by the Vice Chairman, VGTM UDA, Vijayawada for alienation of the above land, the Collector and District Magistrate, Guntur vide Proceedings R.No.542/2004-E1, dated 22.03.2004 ordered that, decided to alienate the land in Sy.No.143-2C2B for an extent of Ac.2-15 cents in favour of VGTM UDA, Vijayawada on payment of market value @ Rs.1,50,000/- lakhs per acre, pending finalization of alienation proposals, permission was accorded for handing over of possession of the said land in advance to the VGTM UDA, Vijayawada.

Basing on the orders the Vie Chairman, VGTM UDA, Vijayawada vide Rc.No.A5/365/2001, dated 20-05-2004 has sent a cheque bearing No.577367, dated 20-05-04 for Rs.3,22,500/- towards market value of the land Ac.2-15 cents in Sy.No.143/2C2B of Kantheru (V) which was proposed for alienation to VGTM UDA, Vijayawada for development of Township and requested for handing over the land.

The Revenue Divisional Officer, Guntur has directed the Mandal Revenue Officer, Tadikonda vide Rc.No.319/2004/A dt: 22-05-2004 to handover the land measuring Ac.2-15 cents in Sy.No.143/2C2B of Kantheru Village to Sri B.Prasanna Kumar, AO, VGTM UDA, Vijayawada. Accordingly, the land was handedover on 15.06.2004 by the then Mandal Revenue Inspector, Tadikonda.

Later, the Vice Chairman, VGTM UDA, Vijayawada sold the land in favour of M/s Lingamaneni Estates Pvt. Ltd., Vijayawada vide Doc.No.1525/2004 dt: 18.06.2004 and later the land was transferred in favour of the petitioner M/s IJM-Lingamaneni Township Pvt. Ltd., Hyderabad vide Sale Deed Document No.2698/2011, dt: 23-05-2011.

In this connection it is to submit that, as the land is originally classified as Donka Poramboke, later alienated through sale deeds in favour of the petitioner M/s IJM-Lingamaneni Township Pvt. Ltd., Hyderabad, the report is submitted for placing the issue before the District Level Committee for taking and finalizing the decision on the request of the petitioner for removal of an extent Ac.2-15 cents in Sy.No.143/2C2B of Kantheru (V) from prohibitory properties listU/s 22-A(1)(b) of Registration Act, 1908.

In view of the above, it is under process for deletion of Sy.Nos.142/1B to an extent of Ac.2.50 cents and Sy.No.144/1B to an *extent of Ac.5-13 cents of Kantheru (V), Tadikonda (M) from the prohibitory properties list U/s 22-A(1)(b) of Registration Act, 1908, as they were private patta lands and acquired under LA by the VGTM, UDA authorities.*

And further, it is submitted that, the land in Survey No.143/2C2 with an extent of Ac.2.57 cents is entered in Prohibitory List as Donka Poramboke. The advance possession of the land was given to the VGT, UDA, Vijayawada, subject to conversion of land from Donka to AWD and subject to finalization of regular alienation of land proposals. Hence, it is under process for conversion of the land from Donka to AWD and alienation of land proposals are under process. After completion of the same, the said Survey number was deleted from the 22-A list.

From the above averments made in the writ affidavit and the written instructions, the aspect of acquiring the land by the Government on payment of compensation and subsequent sale of the said land by VGT UDA to M/s Lingamaneni Estates Pvt. Ltd., Hyderabad is admitted. This shows that the authority, who included subject land in the list of prohibited properties, has done without any application of mind and in totally arbitrary manner.

Even after filing writ petition respondents have not rectified the same, which is arbitrary. When sale is in the year 2002 and 2004 why process of deletion of subject land from the list of prohibited properties is still kept pending is not explained. VGT UDA also registered subject properties in favour of the petitioner's vendor and who in turn hold to the petitioner through registered sale deed. As far as land in Survey No.143/2B, 2C is concerned in the writ affidavit, it is stated as Ac.2.15 cents as far as sale deed dated 18.06.2004 vide document No.1525/2004, but in the prayer, it is mentioned as Ac.5.00.

Accordingly, the writ petition is allowed as prayed for with costs except to the extent in respect of Survey No.172/2B, 2C1 and C2 is restricted to Ac.2.15 cents, quantified at Rs.50,000/- (Rupees fifty thousand only). The respondent No.1 is directed to conduct enquiry, who has included in the said list of prohibited properties without any application of mind and the costs be recovered from the officer concerned, who included in the list of prohibited properties.

Interlocutory applications pending, if any, shall stand closed.

A.RAJASEKHER REDDY,J

Date: 27.11.2018
kvrm