

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

W.P.No. 23431 of 2019

ORDER :

Heard learned counsel for petitioner and learned Government Pleader for Revenue.

2. Petitioner claims that he was eking out his livelihood by doing carpentry work in the cellar of Hi-line Apartments, bearing Premises No.C-14, Road No.12, Shaikpet village, Banjara Hills, Hyderabad. According to petitioner, in front of his workshop, there is a vacant land admeasuring 80 sq.yards in T.S.No.46/2, Block-O, Ward No.12, forming part of Sy.No.403 of Shaikpet village, Road No.12, Banjara Hills, Hyderabad, which is a narrow triangular strip and not fit for any public purpose. Petitioner claims that ever since he started carpentry work in the year 1990, he has been using the said vacant land. Having come to know that the vacant land is a Government land and Government formulated schemes from time to time to regularize such encroachments, he claimed to have made a representation on 29.12.1998, requesting the Government to regularize the unobjectionable encroachment/occupation of petitioner over the said piece of land subject to payment of market value to be fixed by the Government authorities. Considering his request, the District Collector vide letter dated 21.9.1999 addressed to the Chief Commissioner of Land Administration and Government recommending to regularize the above extent of land subject to payment of prevailing market value of Rs.6500/- per sq.yard. As there was no action on the said proposal of the District Collector, petitioner claims to have made a representation on 29.7.2002,

requesting the Collector to expedite the issue. As there was no response, petitioner filed W.P.No.25744 of 2002 before this Court and this Court passed status quo order in W.P.M.P.No.7296 of 2003 dated 11.6.2003 and the said writ petition was finally heard and disposed of by order dated 10.9.2008. Even after disposal of the said writ petition, the claim of petitioner for regularization under G.O.Ms.No.166 dated 16.2.2008 was not considered and the petitioner went on making applications. Vide Memo dated 30.5.2019 of the office of Collector, petitioner was informed that the file bearing No.I3/178/1999 is not available and therefore, the information requested cannot be furnished. Further, vide endorsement dated 19.8.2019 of the Joint Collector, petitioner was informed that as verified with the available records, the details of application for regularization of subject land is not available and therefore requested the petitioner to furnish copies of all relevant documents filed if any for regularization in terms of G.O.Ms.No.166 dated 16.2.2008 so as to take further course of action. In the above stated circumstances, praying to grant direction to regularize the subject plot based on the recommendations of the District Collector dated 21.9.1999, this writ petition is filed.

3. According to learned Government Pleader, initially when the petitioner applied, there was no scheme for regularization and the petitioner kept quite all along and in spite of directions of this Court in W.P.No.25744 of 2002 dated 10.9.2008, petitioner has not applied for regularization under G.O.Ms.No.166 dated 16.2.2008 and therefore, petitioner is not entitled for any relief.

4. The material on record discloses that on a representation made by the petitioner, the District Collector vide his letter dated 21.9.1999 addressed to the office of Chief Commissioner, Land Administration informing that there is a triangular piece of land belonging to Government, which is not useful and the same can be given to petitioner by collecting market value at that point of time. However, the Collector clearly observed that the structure constructed by the petitioner was dismantled on 27.2.1999 and possession was handed over to Police Department. Thus, it is clear that the petitioner is divested of possession long ago. The Collector in its order observed that the said land is in a narrow triangular strip and hence it is not fit for any public purpose and the said land can be utilized by petitioner for self-employment. I am afraid Collector is not competent to make such recommendation.

5. During the course of hearing, it is fairly submitted by the learned counsel for petitioner that no application was made in terms of G.O.Ms.No.166 dated 16.2.2008. Having regard to the fact that the writ petition filed earlier was disposed of with a direction to first respondent to dispose of the application, if any, submitted by the petitioner for regularization of his possession in terms of G.O.Ms.No.166 dated 16.2.2008, it is not open to the petitioner to seek the same relief in a subsequent writ petition without making application under the said G.O. Further, the petitioner was dispossessed long ago and as per the regularization scheme, a person must be in possession and enjoyment of the structure raised by him. These parameters are not fulfilled in this

case. Therefore the petitioner is not entitled for any relief at this stage and the writ petition is liable to be dismissed.

6. Accordingly, the writ petition is dismissed. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

Date: 2.12.2019
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