

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.29126 OF 2019

O R D E R

For converting the subject land from agricultural use to non-agricultural purposes, the 3rd respondent – Revenue Divisional Officer, vide the impugned proceedings No.C1/RV&EO/2951/Gnpt-3 dated 20.11.2019, imposed conversion fee and penalty on the petitioner under the provisions of Telangana Agricultural Land (Conversion for Non-Agricultural Purpose) Act, 2006 (A.P.Act No.3 of 2006). Assailing the same, the present writ petition is filed.

Learned counsel for the petitioner, referring to the averments made in the writ affidavit, mainly contended that before passing the impugned proceedings, petitioner has not received any notice, and the notice which is alleged to have been issued to the petitioner, is sent to the site address, which the petitioner has sold away long back. Therefore, he submits that respondents have not served any notice to the petitioner before passing the impugned proceedings. He further submits that the 3rd respondent has relied on the vigilance report while passing the impugned proceedings, but the said report has not been furnished to the petitioner. Learned counsel further submits that the A.P.Act.No.3 of 2006 came into force in the year 2006, but prior to the coming into force of the said Act, the Hyderabad Urban Development Authority vide letter No.6012/MP2/Plg./H/2004 dated 06.11.2005, granted approval for use of the subject land for non-agricultural purposes. Therefore, the provisions of the A.P. Act 3 of 2006, adapted to the State of Telangana, cannot be made applicable to the case of the petitioner for imposing conversion fee and penalty. In support of this contention, learned counsel relied on the

judgment of a Division Bench of this court in *K.SATYANAND PATNAIK v. HMDA, HYD.*¹

Learned Government Pleader for Revenue, submits that prior to passing of the impugned proceedings, petitioner was issued with show cause notice, but the petitioner neither filed any reply, nor participated in the proceedings, therefore, the 3rd respondent considering the material on record, passed the impugned proceedings. He further submits that mere approval of the Hyderabad Urban Development Authority under the provisions of A.P. Urban Area (Dev.) Act, 1975, will not exempt the operation of the provisions of the A.P. Act 3 of 2006, and in support of this contention, learned Government Pleader also relied on the very same judgment of the Division Bench of this court (1 supra), relied on by the learned counsel for the petitioner. He submits that the proceedings under the provisions of Act of 1975 operate in different field, and unless the land is put to non-agricultural use prior to the commencement of the A.P. Act of 2006, the said Act would apply, and the petitioner is liable to pay the necessary conversion fee and penalty.

Apart from other contentions, the main contention of the petitioner is that before passing the impugned proceedings, it has not been issued with any notice. In this case, it is to be seen that the petitioner obtained approval from Hyderabad Urban Development Authority in the year 2005 and the impugned proceedings shows that the show cause notice was issued in the year 2019, and the case of the petitioner is that the so called notice issued by the respondent No.3 is to site address of the petitioner, which it has already sold away. These circumstances suggest that the

¹ 2016(3) ALD 600 (D.B.)

petitioner has not received notice prior to passing of the impugned proceedings.

Further, the impugned proceedings show that the 3rd respondent relied on vigilance report and also the proceedings of the Tahsildar dated 18.11.2019. The case of the petitioner is that these documents were also not furnished to it.

Learned Government Pleader for Revenue could not produce any material to show that the notice was in fact served on the petitioner and that the documents relied on by the 3rd respondent in the impugned proceedings were furnished to the petitioner.

These circumstances show that there is no proper service on the petitioner and it was also not furnished with relevant documents relied on by the 3rd respondent before imposing conversion fee and penalty.

Therefore, without going into other merits of the case, and only on the ground of violation of principles of natural justice, the impugned proceedings are liable to be set aside, and accordingly set aside, and the matter is remitted back to the 3rd respondent. It is open for the petitioner to raise all pleas available to it under law.

The petitioner shall be furnished with documents referred to in the impugned proceedings dated 20.11.2019, and also any other document, which will have bearing on the issue. After giving opportunity to the petitioner to file objections to the show cause notice and opportunity of hearing, the 3rd respondent shall pass appropriate orders in accordance with law.

The writ petition is accordingly allowed to the extent indicated above.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY,J

DATE:04—02—2020

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