

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.26405 OF 1996

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28-02-2006

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Between

N. Ramakrishna & Others.

.....Petitioners

And

The Special Officer and Competent Authority, Urban Land Ceilings, Visakhapatnam
& another.

.....Respondents

FOR THE PETITIONERS: Sri GHANTA RAMA RAO

FOR RESPONDENT No.1: GP FOR ASSIGNMENTS

FOR RESPONDENT No.2 : Ms.PREETI REDDY

< Gist:

> Head Note:

CITATIONS:

NIL

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26405 OF 1996

Dated 28th February 2006

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N.Ramakrishna & others

...Petitioners

And

The Special Officer and Competent Authority,

Urban Land Ceilings, Visakhapatnam. & another.

...Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26405 OF 1996

ORDER:

Petitioners state that they purchased an extent of Ac.2-20 cents of land in Sy.No.151/1A of Vepagunta village of Pendurthi Mandal, Visakhapatnam District, from Smt.D.Anjulamma and another, through sale deed dated 15.2.1984. The vendors of the petitioners, in turn, are stated to have purchased the land from Sri Dasari Danaiah, through sale deeds dated 5.12.1969.

The land referred to above, is part of Visakhapatnam Urban Agglomeration. On the basis of the declaration filed under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short "the Act"), it was computed to the holding of Dasari Danaiah. He was required to surrender an extent of 0.1576 sq. meters of land, which was declared as surplus. The land in Sy.No.151/1A was identified for surrender. After the proceedings in relation thereto have become final, the surplus land is said to have been handed over to the Visakhapatnam Urban Development Authority, the second respondent herein.

On coming to know these developments, the petitioners filed representations

before the first respondent. Complaining that no action has been taken thereon, the petitioners filed W.P.No.15545 of 1993. It was disposed of, with a direction to the first respondent to conduct enquiry. This writ petition is filed, alleging that no steps have been taken thereon, and still the respondents are interfering with the possession of the petitioners, with their land.

In the counter affidavit filed on behalf of the first respondent, it is stated that the proceedings have commenced with the submission of declaration by Dasari Danaiah, and reached the stage of vesting of the land in the Government or the State. It is also pleaded that pursuant to the directions issued by this Court in W.P.No.15545 of 1993, the petitioners were informed through letter dated 16.2.1995, stating that the land was treated as surplus, under the Act, and that their representations cannot be considered.

Sri Ganta Rama Rao, learned counsel for the petitioners, submits that Danaiah ceased to be the owner of the land in Sy.No.151/1A, with effect from 5.12.1969, much prior to the Act came into force, and in that view of the matter, it was impermissible for the first respondent, to compute the said land to the holding of Danaiah. He contends that even after the sale deeds, through which the petitioners became owners of the land, were brought to their notice, the first respondent did not take any corrective steps.

Learned Government Pleader for Assignment and learned Standing Counsel for the second respondent, on the other hand, submit that once the proceedings under the Act have become final, *vis-à-vis* the land in question, no relief can be granted to the petitioners, at this stage.

The Act restricts the holding of urban vacant land of an individual, within a notified urban agglomeration. The Act prescribes different standard holdings for various urban agglomerations. The occasion to determine the holding of an individual would arise, only in the course of processing the declaration submitted under Section 6 of the Act. Where an individual, who was otherwise under obligation to file a declaration, fails to do so, the competent authority is vested with the power, to require him to file a declaration.

It is not known as to whether the original owner of land in Sy.No.151/1A, by name Dasari Danaiah, has shown that land in his declaration under Section 6 of the Act. For one reason or the other, the land in that survey number was computed to his

holding, and he was declared as surplus holder to an extent of 0.1576 sq. meters.

An individual can submit a declaration, only in respect of the lands owned and possessed by him. It is not open to him, to declare any land, as regards which he ceased to be the owner. It is equally incompetent for the respondents, to have computed such lands in the holding of such person. It is not disputed by the respondents that Ac.2-20 cents of land in Sy.No.151/1A was sold by Danaiah, in favour of Anjulamma and another, through two separate sale deeds dated 5.12.1969. With that, Danaiah ceased to have any right, interest or ownership, *vis-à-vis* that land. It may be true that the petitioners purchased that property in the year 1984 from Anjulamma and another, after the Act came into force. However, in the limited context of examining as to whether it could have been computed to the holding of Danaiah, it would be sufficient to refer to the sale deeds, dated 5.12.1969, through which he sold that land.

Had the land been computed to the holding of the vendors of the petitioners, they could not have any plausible objection, since the sale deeds in their favour, are subsequent to the Act came into force. However, the rights of the petitioners cannot be defeated, by computing the land to the holding of a person, who ceased to be the owner of that land, long prior to the Act came into force.

Whatever may have been the justification for the respondents, in proceeding with the land, treating it as owned by Danaiah, when they were not aware of the series of sales, they ought to have taken corrective steps, once they were informed that Danaiah ceased to be the owner, with effect from 5.12.1969. Denying rights of the petitioners, even after such facts were brought to their notice, amounts to arbitrary exercise of powers and lopsided implementation of the Act.

Hence, the writ petition is allowed, and the respondents are restrained from interfering with the possession and enjoyment of the land in Sy.No.151/1A, by the petitioners. This order, however, does not preclude the first respondent, from taking necessary steps under the Act, against the petitioners, in the matter of requiring them to file declarations under Section 6 of the Act. There shall be no order as to costs.

28th February 2006

Note: L.R.copies be marked.

(B/o)

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