

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.1525 of 2008

Between:

The Airports Authority of India.

PETITIONER

and

The Government of A.P., and others

.. RESPONDENTS

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THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.1525 of 2008

ORDER:

Heard the learned counsel appearing for the petitioner and the learned Government Pleader for Revenue appearing for respondents.

The petitioner-Airports Authority of India questions the order passed by the 4th respondent in proceedings No.B/1771/2000, dated 09-01-2008, on the ground that the land admeasuring Ac.9-00 gts. in Sy.No.26 situated at Kancha Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, was alienated by the Government in favour of the petitioner in the year 1966-67 and since then, the said land is in possession of the petitioner. The said land has been obtained for the purpose of operating Radio Navigational Aid. Accordingly, VOR facility was installed and commissioned in the year 1971. It is stated that an area measuring 305 meters around VOR facility is to be kept free of obstructions. The non-construction in the land in question is not intentional and is also a technical requirement for such a facility to ensure its optimum performance to achieve ultimate aim of safety of aircraft operations.

It is further stated that the Secretary to Government, Revenue Department, Hyderabad, addressed a letter No.035217/Assgn.III (3)/91, dated 26-04-1991 to the petitioner requesting to depute the concerned officer for discussion with Secretary, Revenue Department, Hyderabad, on 25-03-1991 about utilization of the said land and also with regard to resumption of the unutilized land and accordingly, asked to submit explanation. It is stated that pursuant to the said notice, dated 26-04-1991, the petitioner submitted an explanation on 25-06-1991 explaining that VOR facility is extremely important for safety of aircraft operations and, therefore, in the interest of air safety such facility cannot be withdrawn.

Admittedly, after lapse of 17 years of the said notice, dated 26-04-1991, the 4th respondent passed the resumption order through impugned proceedings, dated 09-01-2008, without considering the explanation submitted by the petitioner on 25-06-1991, stating that the petitioner has not filed any reply pursuant to the notice, dated 26-04-1991, and the land in question is required for public purpose. Further, the

resumption order has been passed by the 4th respondent on 09-01-2008 whereas the notice had been issued by the 1st respondent on 26-04-1991. As a matter of fact, the 4th respondent has not considered the explanation filed by the petitioner on 25-06-1991. In fact, the 4th respondent, who passed the resumption order, has not issued notice, dated 26-04-1991. Therefore, the 4th respondent without considering the explanation submitted by the petitioner on 25-06-1991 and without taking into account the present status of the land in question, passed the resumption order, dated 09-01-2008. Therefore, I am of the opinion that the 4th respondent passed the impugned order without following the principles of natural justice and the same is liable to be set aside.

Having regard to the facts and circumstances of the case, the writ petition is allowed setting aside the impugned order of the 4th respondent, dated 09-01-2008, and keeping it open for the respondents to take appropriate action in accordance with law. There shall be no order as to costs.

31-01-2008

Prv