
(2012) 09 AP CK 0043

In the Andhra Pradesh High Court

Case No : Writ Petition No. 26104 of 2012

J. Yadamma and Another

APPELLANT

Vs

State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 25-09-2012

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Urban Land (Ceiling and Regulation) Act, 1976 — Section 10(6), 6, 8(3), 8(4)

Citation : (2013) 1 ALT 443

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : K. Raghuveer Reddy, for the Appellant; Y. Ravindra, for the Respondent

Judgement

L. Narasimha Reddy, J.—The family of the ancestors of the petitioners owns an extent of Acs. 3.37 guntas of land in Survey Nos. 551 and 552 of Uppal Bagath, Uppal Mandal, Ranga Reddy District. In the partition, the branch of the petitioners got an extent of Ac. 0.39 guntas towards one-fourth share. The land is within the urban agglomeration of Hyderabad. Declarations were submitted u/s 6 of the Urban Land (Ceiling & Regulation) Act, 1976 (for short "the Act") by the respective branches. The declarations submitted by the petitioners were numbered as G2/8954/76 and G2/73/77. While the declarations submitted by the other branches were processed and some extents were declared as being in excess, of ceiling limits, those filed by the petitioners did not cross the stage of Section 8(3), before the Act came to be repealed. The land of the petitioners along with that of many others was proposed to be acquired by Hyderabad Metropolitan Development Authority, respondent No. 2 herein, for Musi River Conservation. Notifications issued u/s 4(1) of the Land Acquisition Act, 1894 were challenged by the petitioners and others by filing writ petitions. At that stage, the Government issued G.O.Ms. No. 36, dated 22.01.2011, offering to give a developed plot of 1000 square yards for each acre of acquired land towards compensation. The petitioners agreed for that and have withdrawn the

writ petition. Proceedings initiated under the Land Acquisition Act, 1894 became final and their land vested in respondent No. 2.

2. When the petitioners submitted a representation for handing over the developed plot of 975 square yards in lieu of Ac. 0.39 guntas of their land, respondent No. 2 informed the petitioners that the land held by them vested in the Government as excess under the Act and that they are not entitled to any compensation. Hence, this writ petition.

3. The petitioners contend that though declarations were submitted in respect of their land, no part of it was held to be in excess of ceiling limits, much less possession thereof was taken.

4. The Special Officer and Competent Authority, respondent No. 3 herein, filed a counter-affidavit admitting that the declarations submitted by the petitioners in respect of Ac. 0.39 guntas of land did not cross the stage of Section 8(3) of the Act.

5. In its counter-affidavit, respondent No. 2 reiterated its stand that the land acquired from the petitioners vested in the Government as excess under the Act.

6. Heard the learned counsel for the petitioners, the learned Government Pleader for Revenue for respondent Nos. 1 and 3 and the learned Standing Counsel for respondent No. 2.

7. It is a matter of record that Ac. 0.39 guntas of land in Survey Nos. 551 and 552 owned by the petitioners was acquired by respondent No. 2 by initiating proceedings under the Land Acquisition Act, 1894. Though an effort was made by the petitioners to challenge the proceedings, ultimately they withdrew the writ petition on noticing that the Government issued G.O.Ms. No. 36, dated 21.01.2011, and accepting the offer made in it.

8. The only basis on which respondent No. 2 refused to extend the benefit under G.O.Ms. No. 36, dated 21.01.2011, is that the acquired land vested in the Government as excess under the Act. It is only respondent No. 3, who is competent to certify the status of the land vis-a-vis the provisions of the Act. In clear and categorical term, respondent No. 3 stated that the declarations submitted by the petitioners did not cross the stage of Section 8(3) of the Act. It is only when an order u/s 8(4) of the Act is passed holding that the land of a declarant is in excess of ceiling limits, and possession thereof is taken u/s 10(6) of the Act, that it would vest in the Government. The Act was repealed in the year 2008 and by that time, there was not even an order u/s 8(4) of the Act in respect of the land of the petitioners.

9. Hence, the writ petition is allowed and respondent No. 2 is directed to extend the benefit under G.O.Ms. No. 36, dated 22.01.2011, to the petitioners within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs. The miscellaneous petition filed in this writ petition also stands disposed of.