

(1998) 02 AP CK 0074

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5786 of 1989

N. Komurraiah

APPELLANT

Vs

Special Officer and Competent Authority, Urban Land
Ceilings, Warangal

RESPONDENT

Date of Decision : 04-02-1998

Acts Referred:

Urban Land (Ceiling and Regulation) Act, 1976 — Section 10(5), 20(1), 8(4), 9(1)

Citation : (1998) 2 ALD 488 : (1998) 3 ALT 471 : (1998) 1 APLJ 264

Hon'ble Judges : K.B. Siddappa, J

Bench : Single Bench

Advocate : Mr L. Narasimha Rao, for the Appellant; Government Pleader for Revenue, for the Respondent

Judgement

1. The petitioner prays for issuance of a writ or direction declaring the action of the respondent in proceeding further in the matter of petitioner without passing an order u/s 8(4) of Urban Land Ceilings Act as illegal, arbitrary and without jurisdiction and contrary to Memo No.2013/ UC.II/81-2, dated 15-3-1988 issued by the Government, and to restrain him from proceeding further in the matter.

2. The petitioner is the owner of an extent of 2 acres of agricultural land in S.No.697 of Waddepalle village. Consequent on the promulgation of the Urban Land Ceilings Act he submitted a declaration since Waddepalle comes under urban agglomeration . of Warangal town. The total extent held by the family was 7696 Sq. mts. including the house site admeasuring 120 Sq. mts. A notice u/s 8(3) of the Act dated 29-10-1997 was served on the petitioner slating that the family holds an extent of 1908 Sq. mts. in excess of the ceiling limit. He filed his objections on 26-12-1977. The respondent issued a Memo dated 27-12-1977 stating that the objections are not tenable as they were received after the final statement u/s 9 of the Act was passed. It is stated by the petitioner that orders u/s 8(4) were not passed. The final statement u/s 9 of the Act was served on the petitioner in January 1978 through a covering letter dated 24-12-1978. After

receipt of the same he made representation to the Government u/s 20(1)(b) of the Act. The Government in their memo dated 15-3-1988 observed that no final orders were passed either u/s 8(4) or u/s 9(1) of the Act and they directed the petitioner to renew his request along with a copy of the said orders. The copies of the memo were served to the Commissioner of Land Reforms and Urban Land Ceilings. However there was no response. The petitioner went to the office of the respondent on 13-4-1989 and verified about the stage of the proceedings. He was informed that a notice u/s 10(5) of the Act directing to deliver possession of the land was issued on 29-8-1981. Thereupon, the petitioner brought to the notice the memo of the Government dated 15-3-1988. He was told that the matter will be proceeded further against him.

3. In this Writ Petition the petitioner questions the issuance of notice u/s 10(5) of the Act and also all the proceedings taken without passing order u/s 8(4) of the Act.

4. The respondent filed counter. There is no indication in the counter that any order was passed u/s 8(4) of the Act. The Government in their memo dated 15-3-1988 specifically referred to the fact that no final orders under Sections 8(4) and 9(1) of the Act are passed and therefore directed the petitioner to renew the application for exemption along with the copies of the said orders. This memo was served on the Commissioner of Land Reforms. However, he proceeded to pass orders u/s 10(5) of the Act. This procedure is certainly erroneous. Section 8(4) of the Act contemplates that after receiving objections the authorities have to pass an order.

5. In the counter the respondent took the stand that the objections were received beyond the time granted i.e., on 26-12-1977. Therefore they did not take the objections into consideration. However this fact should not have precluded the respondents from passing order u/s 8(4) and also u/s 9(1) of the Act. Passing of these orders is mandatory before proceeding further. This exercise was not done even after the memo of Government dated 15-3-1988 was served on the Commissioner of Land Reforms. Therefore, the further proceedings are liable to be set aside and they are accordingly set aside. The respondent is directed to pass order u/s 8(4) and also u/s 9(1) of the Act and proceed further, according to law.

6. The Writ Petition is accordingly allowed, and in the circumstances without costs.