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Court : Andhra Pradesh

Decided On : Jan-19-1987

Reported in : AIR1989AP60

Judge : Syed Shah Mohammed Quadri, J.

Acts : Urban Land (Ceiling and Regulation) Act, 1976 - Sections 4(1), 6(1), 6(2), 18 and 18(1)

Appeal No. : Writ Petn. No. 1796 of 1981

Appellant : J. Narasimhareddy and anr.

Respondent : The Special Officer and Competent Authority, Urban Land Ceilings, Hyderabad

Advocate for Def. : Govt. Pleader for Food and Agriculture

Advocate for Pet/Ap. : V. Madhava Reddy, Adv.

Disposition : Petition allowed

Judgement :

1. The order of the Special Officer & Competent Authority, Urban Land Ceilings, Hyderabad dt. 12-11-1980, the respondent, imposing a penalty of Rs. 23,06,710-20

under Section 18(1) of Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act') is assailed in the writ petition.

2. The case of the petitioners is that in 1971 they purchased Ac. 31-11 guntas of land comprised of Sy. Nos. 124, 125, 126, 127/1 and 128/1 situated in Gaddi Annaram. On 27-6-1979 notification under Section 4(1) of the Land Acquisition Act was issued proposing to acquire Sy. Nos. 124,125 and 126 measuring Ac. 26-26 guntas and Sy. No. 128 Part measuring Ac. 1-13 guntas. The petitioners did not file any declarations contemplated under Section 6(1) of the Act. Notices were issued to them under Section 6(2) of the Act on 20-5-1980. Again summonses were issued to them on 16-9-1980. In response to the summons, they filed reply dt. 29-9-1980 stating that the lands have been acquired, hence they have not filed any declarations. The petitioners were under the impression that in response to their representation, they may receive a reply from the respondent, or the respondent will pass orders on it but they have received the impugned order.

3. The respondent filed counter-affidavit stating that the contention of the petitioners that as the land acquisition proceedings have been initiated, they were advised that they need not file any declaration under Section 6(1), is untenable. Mere initiation of the land acquisition proceedings does not mean that the land has been vested with the Government, the petitioners are bound to file declarations under Section 6(1) of the Act. As they failed to do so notice under Section 6(2) of the Act was issued to them on 25-5-1980 asking them to file declaration under Section 6(1) before 9-9-1980. As they failed to comply with the notices, summonses were issued to the petitioners to appear on 29-9-1980. On that date, petitioner 1 appeared before the respondents and filed the representation stating that as the land acquisition proceedings have been initiated, no action under Urban Land Ceiling Act is necessary. However, the said Narasimha Reddy had given an undertaking in writing that he will file the declaration on or before 10-10-1980. As he failed to file the declaration, the penalty was levied under Section 18(1) of the Act. It is further submitted that not giving all the particulars amounts to concealment. Therefore, the impugned order is valid.

4. Shri Mohan Reddy, the learned counsel for the petitioners submits that before imposing the penalty under Section 18(1) of the Act, no notice was given to the petitioners. Therefore, the impugned order is vitiated being in violation of the principles of natural justice. The learned counsel for the respondent, however, submits that in as much as petitioner appeared before the competent authority on 29-9-1980, no further opportunity need be given, therefore, the order passed is valid.

5. To appreciate the rival contentions Section 18(1) may usefully be extracted :

'18. Penalty for concealment, etc. of particulars of vacant land:-- (1) If the competent authority in the course of any proceedings under this Act, is satisfied that any person has concealed the particulars of any vacant land or of any other land on which there is a building, whether or not with a dwelling-unit therein, held by him or furnished inaccurate particulars of such land or of the user thereof; it may, after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, a sum which shall not be less than, but which shall not exceed twice, the amount representing the value of the vacant land or of such other land or both, as the case may be, in respect of which the particulars have been concealed or in respect of which inaccurate particulars as aforesaid have been furnished.'

From a perusal of the above provision, it is clear that before any action is taken against the petitioners, the respondent ought to have given them an opportunity of being heard.

6. In view of the fact that giving an opportunity of being heard before taking action of imposing penalty under Section 18(1) of the Act, is mandatory, the contention of the learned Government Pleader that the petitioners were heard when they approached in Section 6(2) proceedings, cannot be accepted as imposition of penalty cannot be a sequel of these proceedings. Admittedly no notice was given to the petitioners pointing out the concealment before imposing penalty under Section 18 of the Act. The impugned order was passed in violation of Section 18 of the Act and hence it is illegal.

7. The impugned order is also bad for non-compliance of principle of natural justice. It is now well settled that the principles of natural justice are part of the constitutional guarantee contained in Article 14. In *Union of India v. Tulsiram Patel*, : (1985) IILLJ206SC their Lordships observed :

'The principles of natural justice have thus come to be recognised as being a part of the guarantee contained in Article 14 because of the new and dynamic interpretation given by this Court to the concept of equality which is the subject-matter of that Article. Shortly put, the syllogism runs thus : violation of a rule of natural justice results in arbitrariness which is the same as discrimination; where discrimination is the result of State action, it is violation of Article 14, therefore, a violation of a principle of natural justice by a State action is a violation of Article 14.'

In view of the authoritative pronouncement of the Supreme Court, the impugned order cannot be sustained.

8. For the aforesaid reasons the impugned order No. D1/515/80 dt. 12-11-1980 issued under Section 18(1) of the Urban Land (Ceiling and Regulation) Act, 1976, is declared as illegal, and is accordingly quashed. The writ petition is accordingly allowed. No costs. Advocate's fee Rs. 200/-.

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