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WP-14152-2017

IN THE HIGH COURT OF MADHYA
PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

WRIT PETITION No. 14152 of 2017*BRAJENDRA KESARWANI**Versus*

*ADDITIONAL COLLECTOR JABALPUR CUM COMPETENT
AUTHORITY UNDER URBAN LAND (CEILING AND
REGULATION) ACT*

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Appearance:

Shri S.K. Rawat - Advocate for the petitioner.

Shri Hitendra Singh - Government Advocate for the State.

Shri Ram Suphal Verma - Advocate for the Intervener.

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Reserved on : 07.04.2025

Delivered on : 20.06.2025

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ORDER

Petitioner has filed this petition under Article 226 of the Constitution of India challenging order 29.11.2019 contained in Annexure-P/8 passed in revenue Case No.0093/B-121/2017-18.

2. Brief facts of the case are that case under Urban Land (Ceiling and Regulation) Act, 1976 was registered at Case No.561/A-19(B-9)/1979-80. Original owner of land in question was one Yogendra Prasad S/o Chhote Lal who had filed his statement regarding surplus land under section 6 of Act of 1976. Draft statement was issued on



04.02.1984 and same was served upon one Sundarlal on 04.04.1984. No objections were filed in respect of draft statement and final statement was issued under Section 9. Said final statement was served on 07.07.1984, thereafter, publication in Gazette of Madhya Pradesh was made on 01.03.1985. Publication of Gazette notification under Section 10(3) was made on 04.04.1986. Notice under Section 10(5) was issued on 19.07.1989 which is served on 26.07.1989. Case was forwarded for taking possession to Tehsildar which was registered as Case No.120-B-121/88-89. Land was declared surplus and possession was taken on 20.10.1989. An application was filed by one Brajendra Keswarani and others before Additional Collector, Jabalpur. Application was registered as Case No.10/B-121/14-15. Said application was filed in light of order passed by High Court date 18.12.2014. Case was remanded back issuing direction to consider the case of petitioner afresh in light of various judgments quoted in the order. On basis of said direction, Additional Collector took up the matter for hearing. Upper Collector dismissed the case as he found that case was not within the ambit of Section 3(1)(a) of the ULCRRA, 1999 and application was dismissed vide order dated 20.03.2015. Said order was challenged in WP No.21765/2015. Said writ petition was disposed of vide order dated 30.08.2017 by Division Bench. Impugned order was quashed and matter was remanded back to Additional Collector for fresh decision in accordance with law. As per said direction, matter was again taken up by Collector, Jabalpur.



Application was dismissed with finding that land has been vested in State Government and applicants are not eligible to get the benefit of Section 4 of the ULCRRA, 1999. Said order is under challenge before this Court in this petition.

3. Learned counsel appearing for petitioners submitted that petitioner is successor/holder/owner of land situated at village Chowkital, Khasra No.2, Patwari Hika No.28 measuring 03.19 hectare and Khasra No.5/2 measuring 1.214 hectare. Two revenue cases were registered under ULCRA, 1976 i.e. Case No.561/A-90(b-9)/79-80 and Case No.57/A-90(b-9)/82-83. Aforesaid land were purchased by petitioner by registered sale deed dated 11.10.1995 and 21.10.1988 from Babban Sonkar and Yogendra Prasad. It is submitted that land in question does not come within definition of Urban Agglomeration under Section 2(N) of ULCRA, 1976. No notification was issued under Section 2(N) of the Act, 1976, therefore, land was not vacant land and Act was not applicable in case of petitioner. Additional Collector in its order dated 20.03.2015 has admitted that no notification has been issued and there is non-compliance of provision of Section 10 of ULCRA, 1976. On this ground, prayer is made to set aside impugned order passed by Collector dated 29.11.2019 and abate ceiling proceeding in question and direct Revenue Authority to mutate the name of petitioner in revenue records.

4. Learned Government Advocate appearing for State opposed the



petition and submitted that averment made by petitioner that there was no notification under Section 2 (N) of the Act of 1976 is incorrect. It is submitted that petitioner has accepted the compensation amount. Petition is filed an after thought, therefore, prayer is made for dismissal of writ petition.

5. Heard the counsel for the parties and perused the original records.

6. On going through the record, it is found that possession of land was taken and case under ULCRA, 1976 was concluded and compensation has also been decided by competent authority of an amount of Rs.2222/-. Proceeding under Sections 11-14 was done on 10.05.1992. Aforesaid fact shows that proceeding under ULCRA, 1976 was concluded on said date. As per averment made in the writ petition, registered sale deed was made in favor of petitioner on 11.10.1995 and 21.10.1988 by Babban Sonkar and Yogendra Prasad. On date of registration of sale deed i.e. on 11.10.1995, land has already been vested in State Government as possession is said to have been taken under Section 10(6) on 20.10.1989. So far as sale deed dated 21.10.1988 is concerned sale deed could not have been executed during pendency of case. Notification under Section 10(3) was made on 04.04.1986 and land vested in the State Government, therefore, no transaction could be done by second registered sale deed dated 21.10.1988. No appeal was preferred under section 33 before the appellate authority nor any



revision was preferred before State Government challenging vesting of land in the State Government. However, after conclusion of proceeding under ULCRAA, 1999, registered sale deed was executed in favor of petitioner. In absence of challenge to proceedings under ULCRA, 1976 owner of land does not have any right to sell the land to petitioner. Registered sale deed made in name of petitioner is not valid.

7. Section 27 prohibits transfer of land within period of 10 years of commencement of the Act. During pendency of proceeding, transfer can only be made with permission. In this case, proceeding has already been concluded which has not been challenged. Since, proceeding has been concluded and land has been vested in a State Government and original owner had not made any objections or challenge to said proceeding in appeal or revision, therefore, no rights will accrue in favor of petitioner and he cannot challenge the proceedings. No benefit of Section 4 of ULCRRA, 1999 can be given to petitioner as no proceeding i.e. appeal or revision was pending after vesting of land with the State Government. In this case, proceeding has already been concluded, therefore, there was no question of abatement.

8. It is also submitted by counsel for the petitioner that whole proceedings are null and void as land of petitioner does not fall within urban agglomeration and there is no notification under Section 2(N) of ULCRA, 1976 is published, therefore, proceedings could not have been initiated under said Act. Collector has specifically dealt with the issue



and has held that land is included in the Master Plan and within the limits of urban agglomeration. Said fact has been discussed by Collector and distances has also been mentioned. Since, land is included within the limits of urban agglomeration, therefore, action can be taken in respect of urban land which falls within definition of under Section 2(O). Question of fact regarding distance of land from urban agglomeration cannot be reopened in writ petition and findings giving by Collector that land is situated within the limits of urban agglomeration is final in nature. Land of petitioner will be covered under Section 2(O).

9. In these circumstances, no interference is called for, hence, writ petition is *dismissed*.

(VISHAL DHAGAT)
JUDGE

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