

OPINION:

1. The subject property is survey No. 174, Mallapuram Village, Nacharam, Uppal Mandal of an extent 19,421 sq mts claimed by M/s. Modi Properties and Investments Pvt Ltd., Secunderabad.

2. M/s. Kissan Cement Pipe Co., a Partnership firm purchased under a Registered Deed dated 29th Dec, 1972, this property being factory land and building bearing No. 1073/1-128, comprised in survey No. 174 admeasuring Acres 4 and 32 guntas equivalent to 1.94 Hectares enclosed in a compound wall form four individuals and the vendees put in possession.

The four vendors in turn statedly purchased the property under a registered document dated 11-2-1965. (not produced and should be called upon to produce).

3. The partnership Firm of M/s. Kissan Cement Pipes Company continued to own the property and filed a declaration under 6(I) of the Urban Land Ceiling Act. Under proceedings dated 27-9-1993 the competent authority, held that the declarant, is a non-surplus-holder in respect of this factory property.

4.

By further proceedings dated

June, 1998; Government of A.P. GO by Misc No. 322 MA in exercise

of its powers under A.P. Urban Areas Development Act, made a

variation in the zonal development plan, of Moula Ali Zone area,

where under the area, earlier earmarked for recreation use is

altered and redesignated as residential use Zone in the revised

Zonal Development plan. It is inter alia stipulated therein that the

applicant M/s. Kissan Pipes shall obtain prior permission from HUDA

before undertaking any development in the site under reference.

5.

While so, the erstwhile owner is

Kissan Cement Pipe Company, transferred initially in favour of the

present claimant, under a sale deed dated 3rd October, 1996, an

extent of Acre 1 Guntas 10, out of the factory property.

By a further sale Deed dated 8-1-

1998, (not produced and should be called upon to produce) M/s.

Kissan Cements Pipes, transferred in favour of M/s. Modi Properties
and Investments Pvt Ltd., a further extent of Acre 1 and Guntas 03,

and by another sale deed dated 22nd Sept, 1998, sold Acre 1 and

yet by another sale deed dated 24th February, 1999, sold the balance

extent another Acre 1, and put the respective portions, sold in the

possession of the vendees, leaving 19 guntas. The left out portion

of Guntas 19 also is ultimately sold in favour of the same claimants under a sale deed dated 7th April, 1999.

Thus the claimant acquired title to the entire extent of 4 Acres 32 Guntas in Survey No. 174 together with the factory land and building.

6. The claimant got the property bearing municipal No. 4-106, mutated in its name with the Kapra Municipality under a proceedings dated 5-5-1999,

The claimant also paid municipal tax on the property, evidenced by receipt dated 29-3-99.

7. By the course of above deeds and documents the subject property of Acres 4. 32 Guntas, stands transferred and mutated in the name of the claimants. But the encumbrance certificate produced, relating to the period 1-4-85 to 30-4-99, do not bear out the various transactions referred above. Fresh certificates are required to be produced.

8. While thus the claimants acquired title to the property of Acres 4 Guntas 32 together with the buildings thereon bearing municipal No. 4-106, this holding of Acres 4 03 Guntas attracts Urban Land Ceiling Act, having regard to the proposed user of the land as residential Area with a housing

complexes thereon. The earlier clearance given by the Competent Authority, dated 27-9-93 favouring M/s. Klissan Cement Pipes Ltd., as a factory property, cannot be availed of by the present claimant, In support of his holding. Accordingly the claimant has to obtain approval of the Urban Land Ceiling Authority under Section 22 of the Urban Land Ceiling Act in respect of the intended constructions and also the consent of HUDA, before the claimant can be considered as having a clear and marketable title, for the entire Acres 4 and Guntas 32, and before any lending is made against the security of the said property for construction of Residential Complex. .


V.V. Krishna Murthy.

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