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To

The Commissioner
 A.P. Capital Region Development Authority,
 Governorpet
 Vijayawada.

Sir,

Sub: Land Pooling Scheme – Transfer of ownership rights to the Authority vis-à-vis
 Transfer of ownership of restructured plots/land to the land owners or other
 transferees – Conveyance of Title – Opinion – Reg.

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I have been asked to give my opinion in regard to the following issue.

“Whether The A.P. Capital Region Development Authority or its transferees would acquire valid and marketable title over the property that was transferred by the land owners under The Andhra Pradesh Capital City Land Pooling Scheme Rules, 2015 ?”

01. The Government of Andhra Pradesh with an intention to build People’s Capital at Amaravathi has legislated ‘The Andhra Pradesh Capital Region Development Act, 2014’, herein after referred as ‘Act’ in short, and developed a statutory Land Pooling Scheme ie., ‘The Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015’, herein after referred as ‘LPS’ in short. For such purpose an authority was constituted viz., ‘Capital Region Development Authority’, which was constituted under sub-section (i) of Sec.4 of the Act, herein after referred the same as ‘Authority’.

02. The ‘Act’ is a Special Legislation and the ‘LPS’ is a statutory scheme. The beauty of the statutory scheme is that a Land Pooling Mechanism is adopted for development of the Capital City area in association with land owned by individuals or group of owners, who are willing to transfer their respective ownership rights to the ‘Authority’, who would later transfer ownership rights over the re-structured plots/developed land.

03. Sec.52 of the Act says about the Land Pooling Scheme, which is intended for land owners volunteering to surrender their land against a guaranteed return of a developed



and re-constituted plot/land. As per Sec.56, S.57, S.58 & S.59 r/w. Rule 3 (5) (1); the 'Authority' may undertake to develop a Land Pooling Scheme pursuant to the notification issued under sub-section (5) Sec.43 of the 'Act'. As per Sec.52 r/w. sub-clause 2 (a) of Rule 5; the 'Authority' shall guarantee the return of developed/reconstituted plot/land and payment of benefits to the land owners per every acre of original land surrendered under the LPS viz., 'patta', 'assigned', 'jareebu land' etc., would be allotted certain extent under the head of residential, commercial etc., however the extent that will be allotted may vary and depends on the nature of land transferred, referred supra. The surplus land would vest with the 'Authority', which may either utilize to build capital or for Public purposes or transfer for consideration or to lease out to other individuals or legal entities etc., for a specified object. Sec.54 r/w. Rule 5 (13) that the 'Authority' in the overall interest of the development of area, may develop the secured land either on its own or in partnership with reputed agencies selected, following prescribed procedure, which is fair and transparent. For such purpose, a detailed mechanism under Chapter IX of the 'Act' and Schedules – I to IV & V of LPS, which may read as part of this legal opinion.

04. On perusal of the objective of the Act as well as the LPS, undoubtedly it is a beneficial legislation thereby individuals or group of persons, Institutions etc., would be benefited apart from building People's Capital for the State of Andhra Pradesh. The 'Act' is not only beneficial legislation and it is to be considered as a special legislation. It is well settled Law that a 'Special Law would prevail over General Law'. The Hon'ble Supreme Court in its Judgment in AIR 1982 SC 137 at 139 observed that 'it is a well-settled canon of construction that in construing the provisions of such enactments, the Court should adopt that construction with advances, fulfills and furthers the objective of 'Act' rather than one which would defeat the same and rendered the protection illusory'. In another citation reported in AIR 1986 Supreme Court 463 at 465 and in AIR 1988 SC 587 at 593, the Apex Court in constructing the provisions of the beneficial Legislation, observed that 'Court has to bear in mind that it is a beneficial enactments, the Court should follow a policy of benevolent and liberal construction rather adopting a narrow interpretation'. In another citation reported in AIR 1987 SC 1070 at 1078 observed that 'all interpretation must sub-serve and help implementation of the intention of the legislature'. Thus, it is the opinion of the Hon'ble Supreme Court that the Court should give Special Emphasis for implementation of Special and Beneficial legislations.

05. As far as transfer of ownership is concerned, Sec.5 of the Transfer of Property Act, 1882 define the "Transfer of Property" means; An Act by which a living person

