

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.16528 OF 2012

ORDER:

The case of the petitioner is that he along with two others i.e.Mr.Mohd.Rizwanuddin Farooqi and Mr.Owaisuddin Farooqui, are the absolute owners, possessors and occupiers of the plots bearing No.47, 48, 76, 77, 78, 79, 80 and 81, total admeasuring 1814.74 Square Yards in Sy.No.653, situated at Brindavan Colony, Ameenpur Village, Patancheru Mandal, Medak District by virtue of registered sale deed purchased in the year 2003 from the original owner. The petitioner's vendor name is reflected in the 'Khasra Pahani' and also subsequent pahanies. While so, when the revenue authorities tried to interfere and evict the petitioner without following the due process of law, the petitioner filed WP.No.3847 of 2012, and this Court disposed of the same on 21.02.2012 in favour of the petitioner and two others as they jointly purchased the said property through the registered sale deed. Thereafter, on 20.05.2012 and on 24.05.2012, when the staff of the respondent No.3 started interfering with the possession of the petitioner, the petitioner submitted representations to the respondents 1 to 3. In spite of making representations by the petitioner, the respondents continued interference. Having no other go, the petitioner filed the present writ petition.

The 3rd respondent filed counter stating that the Gram Panchayat has sanctioned lay out in Sy.No.659 to an extent of Ac.2.13 and in Sy.No.653 to an extent of Ac.2.26 admeasuring total Ac.4.39 guntas in the limits of Gram Panchayat, Ameenpur on 15.10.1978 through the resolution No.3 by the Sarpanch, Gram

Panchayat, Ameenpur. As per the sanctioned layout there are 82 plots proposed in the said lay out, road area shown as 640284 Sq.y.s. and open area shown as 2407.90 Sq.Ys. It is further stated that the vendors of the petitioner have sold out the plots as per their wish but not as per the sanctioned lay out plan; and the petitioner has purchased the same without looking into the sanctioned layout. It is also stated that as per G.O.Ms.No.67, PR and RD (Relief) Department, dated 26.02.2002, layout and building rules were issued. Under rule 22 sub-rule(7) of the rules, it is clearly mentioned that all the roads and open spaces such as parks and play grounds earmarked in accordance with these rules in a layout, which is approved by the Gram Panchayat, shall automatically stand transferred free of cost and vests with the gram panchayat free from all encumbrances. But, in the present case the lay out owner has set apart to an extent of 2407.90 Sq.Ys. as open space and indirectly by making parts of sanctioned plot encroached the open plots and that at present there is no open place remain in the said layout.

Learned counsel for the petitioner submits that petitioner purchased the subject land by way of registered sale deed and that the respondents cannot evict the petitioner without following due process of law.

Learned counsel for the respondents submits that after making layout the open spaces and roads are to be handed over to the Gram Panchayat as per the rules and that the petitioner without verifying the sanctioned layout has purchased the plot and the same is disputed by the petitioner.

These all are disputed questions of fact which cannot be

decided in the writ petition by exercising jurisdiction under Article 226 of the Constitution of India. In view of the same, I do not see any merits in the writ petition.

Accordingly, the writ petition is dismissed. However it is open for the petitioner to approach the Civil Court for declaration of the rights and the same may be considered by the Civil Court without being influenced by the observations made in this writ petition. No costs.

As a sequel thereto, miscellaneous petitions, if any pending shall stand closed.

A.RAJASHEKER REDDY, J

25.08.2015
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