

**THE HON'BLE SRI JUSTICE A.V. SESA SAI**

**WRIT PETITION No.14187 of 2005**

**ORDER:**

This writ petition is filed under Article 226 of the Constitution of India to call for the records concerning the disposal of 50 Sq. yards of land adjacent to Western side of petitioner house bearing No.78, Type II in Phase.V Self Finance Scheme of Vanasthalipuram Residential Complex in Sy.No.201 of Saheb Kalan Village, Hayathnagar, Hyderabad and to declare the transaction in favour of respondent No.3 as illegal and void.

Heard Sri R. Prasad, learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development, Sri Ch. Ganesh, learned counsel for the respondent No.4 and Sri M. Sreenivasa Rao, learned counsel for the respondent Nos.5 and 6 apart from perusing the material available before the Court

The petitioner herein was allotted land in Sy.No.201 of Saheb Nagar Kalan village, Hayathnagar, Hyderabad in Phase-V, Self Finance Scheme of Vanasthalipuram Residential Complex. The grievance of the petitioner precisely in the present writ petition is that the subject land admeasuring 50 Sq. yards was allotted by the authorities in favour of the third respondent, who in turn sold the same in favour of the fourth respondent. According to the petitioner, the said action of selling the said 50 Sq. yards of land is illegal and contrary to the instructions of the Government.

On the contrary, it is the case of respondent No.4 that respondent purchased the land admeasuring 247 Sq. yards from respondent No.2 and the same was purchased by respondent No.4 by way of registered sale deed on 30-08-1995. It is also the case of the fourth respondent that identical W.P.No.7695 of 2011 was filed by one Mr.P. Ram Reddy before this Court and the said writ petition was dismissed by this Court by order, dated 14-11-2011. A copy of the said order is placed on record by the learned counsel for the fourth respondent.

By virtue of the said order, dated 14-11-2011 this Court dismissed the said writ petition and operative portion of the said order at paragraph Nos.5 and 6 reads as under:

*“5. As seen from the pleadings, it is clear that the subject site ad-measuring 98 Square yards in category-II in Survey No.201, Ward No.5, Block-6 situated in Saheb Nagar Kalan village, Hayathnagar, R.R. District was allotted to the 3<sup>rd</sup> respondent on payment of market value. In pursuance of the said allotment, the 2<sup>nd</sup> respondent executed a sale deed, dated 02-04-1996 in favour of the 3<sup>rd</sup> respondent. A specific plea has been taken by the 2<sup>nd</sup> respondent that in terms of the rules and regulations, the allotment was made to the 3<sup>rd</sup> respondent. That fact has not been denied or disputed in the reply affidavit filed by the petitioner. The question of allotment cannot be challenged for the reason that a regular sale deed has already been executed by the 2<sup>nd</sup> respondent in favour of the 3<sup>rd</sup> respondent. When the land is not available with the 2<sup>nd</sup> respondent, the question of allotting the same to the petitioner being the owner of the side plot by sale of the subject site cannot be made in view of the fact that the 2<sup>nd</sup> respondent is not a owner at present as he already sold that land by way of registered sale deed for valuable consideration. There is no factual aspects pleaded in the affidavit filed in support of the writ petition as to how the allotment of subject land has to be illegal and arbitrary. In the absence of any factual foundation, the allotment cannot be cancelled as in pursuance of said*

*allotment, a regular sale deed was executed by the 2<sup>nd</sup> respondent. Therefore, the writ petition is devoid of merit and is liable to be dismissed.*

6. *Accordingly, the writ petition is dismissed. No order as to costs.”*

It is also a matter of record that as against the said order passed by the learned Single Judge of this Court, the writ petitioner therein preferred Writ Appeal No.1028 of 2011. By way of an order, dated 02-07-2013, while dismissing the Writ Appeal, a Division Bench of this Court granted liberty to the appellant therein to work out his remedies if law permits and the present writ petition also stands on the same footing.

At the hearing it is requested by the learned counsel for the petitioner to permit the petitioner to withdraw the writ petition with the above liberty.

Permission as sought for is accorded.

Accordingly, the writ petition is dismissed as withdrawn with a liberty to permit the petitioner to work out his remedies if law permits. There shall be no order as to costs.

In view of the dismissal of the present writ petition interim order, dated 29-03-2008 stands dissolved. The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

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**A.V. SETHA SAI, J**

March 09, 2015

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THE HON'BLE SRI JUSTICE A.V. SESA SAI

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