

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.P. No. 33457 OF 2013

ORDER :

This writ petition is filed seeking writ of mandamus declaring the action of the 1st respondent in refusing to issue Clearance Certificate duly deleting the land situated in Sy.No.122/2P of Vadlapudi Village, Gajuwaka Mandal, Visakhapatnam in the approved layout in L.P.No.35/89, through letter No.154/2013/L2, dated 25.10.2013 as illegal and arbitrary and consequently to direct the 1st respondent to take immediate action for issuance of clearance certificate duly deleting the petitioners property.

2. It is the case of the petitioners that they are absolute owners of the property with an extent of 714.28 sq.yards situated in Sy.No.122/2 Vadlapudi Village, Gajuwaka Mandal, Visakhapatnam District, which was purchased jointly through three sale deeds Nos.1783, 1784 and 494, dated 26.03.2008 and 18.11.2009 respectively from its original owner Sri Palla Apparao. Subsequently, their names have been mutated in revenue records, in the village account of Vadlapudi Village through Memo No.D.Dis.No.125/2008, dated 11.2008, by the Tahsildar, Gajuwaka and they have also paid vacant land tax to the 2nd respondent. It is stated that the land situated in Sy.Nos. 122 and 123 of Vadlapudi Village was acquired by the Special Deputy Collector, Land Acquisition, Steel Plant Unit-II, Visakhapatnam from their vendor and their vendor through Award No.22/81, dated 26.11.1981. It is stated that subsequently in the year 1985 the lands have been declared excess and no longer required for Visakhapatnam Steel Project and other related purposes for which it was acquired and accordingly reconveyance orders were passed through proceedings dated 17.06.1985. Therefore, the vendor of the petitioners and their

vendors have become absolute owners of the property. Thereafter, the petitioners made an application along with plan by paying requisite development charges for construction of building and the same was returned vide proceedings dated 20.01.2010 by the 2nd respondent on the ground that the subject site falls in the open space in L.P.No.35 of 1989. Assailing the said proceedings, petitioners filed W.P.No.2820 of 2010 before this Court and this Court disposed of both the writ petition with a liberty to the petitioners to resubmit the building plans explaining the objection raised by the Greater Visakhapatnam Municipal Corporation and on such representation, the respondents therein further directed to make necessary enquiry in terms of the proceedings dated 16.09.1997 of the 1st respondent herein and pass appropriate orders. Thereafter, petitioner resubmitted the building plans on 27.09.2010 and 09.01.2012. In pursuance to the same, the impugned proceedings dated 25.10.2013 have been issued stating that the request of the petitioners cannot be considered in view of the judgment delivered by this Court in W.P.No.21745 of 2012 dated 12.10.2012. Aggrieved by the same, the present writ petition is filed.

3. Heard learned counsel for the petitioners as well as learned Standing Counsel for the respondents.

4. Learned counsel for the petitioners submit that though there is an order dated 12.10.2012 in W.P.No.21745 of 2012 directing the respondent Corporation to consider the proceedings dated 16.09.1997 issued by the 1st respondent, without considering the same, the impugned order has been passed.

5. On the other hand, learned Standing Counsel for the respondent Corporation submits that the petitioners have not at all submitted revised plans as per the directions in W.P.No.2820 of 2010 on 30.08.2010 and liberty was granted to the petitioners to resubmit the building plans explaining the objections raised by the GVMC that the

proposed site falls in reserved open space of L.P.No.35 of 1989 and on such representation, VUDA (Visakhapatnam Urban Development Authority) and GVMC shall make necessary enquiry in terms of the proceedings of VUDA dated 16.09.1997 and pass appropriate orders in accordance with law. However, the petitioners have not submitted building plans to the respondent, but only submitted letter dated 09.01.2012 requesting to issue the clearance certificate, as such, the petitioner was informed about the same.

6. In view of the above facts and circumstances, the question that remains is that whether the first respondent has complied with the directions in W.P.No.21745 of 2012 dated 12.10.2012. Both the petitioners as well as the respondents have not complied with the orders passed in the earlier writ petition. Neither the respondents have considered the proceedings dated 16.09.1997 before issuing impugned proceedings nor the petitioners submitted revised plans.

7. Learned counsel for the petitioners submits that they will resubmit the building plans as per the orders passed by this Court in the earlier writ petition. When there is a reference in the impugned proceedings dated 25.10.2013 about orders passed by this Court in W.P.No.21745 of 2012 dated 12.10.2012 and when there is specific direction to consider and pass orders by taking into consideration the proceedings dated 16.09.1997, the respondents should have considered the effect of the proceedings and pass orders.

In view of the above facts and circumstances, the impugned order dated 25.10.2013 is set aside. The petitioners are at liberty to resubmit the building plans explaining the objections raised by the respondent-GVMC. On such representation, the respondent Corporation is to pass appropriate orders, within a period of eight (8) weeks from the date of receipt of a copy of this order, by taking into account the proceedings dated 16.09.1997 in accordance with law.

With the above direction, the writ petition is disposed of. There

shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending in this writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

09.02.2015.

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HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 09-02-2015

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