

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.18327 OF 2008

ORDER

The case of the petitioners is that they are the absolute owners and possessors of land admeasuring 89.3/4 cents in R.S.No.137/2 of Patamata Village, Vijayawada having purchased the same by virtue of a registered sale deed dated 02.04.1960 bearing No.1059/1960 and after the death of their father, they have succeeded the said property as his legal heirs. While so, when the respondents tried to lay a road and drainage line in the property belonging to the petitioners in an extent of Ac.0-42 cents to connect Vijayawada-Machilipatnam High way with internal roads of Postal Colony, the petitioners made a representation on 26.08.2003 requesting the 1st respondent either to acquire the land or to give an alternative site. But the respondents without following due process of law tried to lay a drainage line in the said land. Against the action of the respondents, the petitioners filed W.P.No.19113/2003 and the said writ petition was disposed of giving liberty to the petitioners to approach the Competent Civil Court for necessary compensation. Likewise, the adjacent land owners one M.Venkateswara Rao and others filed W.P.No.17521/2002 against the respondents seeking relief directing the 1st respondent Corporation to allot alternative site for the site to an extent of Ac.0-49 cents in Sy.No.137/2 of Patamata Village, Vijayawada and the said writ petition was disposed of directing the respondents not to dispossess the petitioners without initiating the proceedings under the Land Acquisition Act, 1894 or without obtaining their consent. In W.P.No.19123/2003 filed by the petitioners, it is wrongly represented that the petitioners have left the land for road while the property was sub-divided as per the lay out suggested by 2nd respondent. It is also stated that though the land of the petitioners in W.P.No.17521/2002 also fall in the same Sy.No.137/2, the respondents have not raised any such objection in the said writ petition and

submitted that they will acquire the land or provide alternative land as per the orders of the Government. Therefore, when the petitioners herein are similarly situated as of the petitioners in W.P.No.17521/2002, the respondents have granted alternative site to the petitioners in W.P.No.17521/2002, where as the petitioners was denied the same. Aggrieved by the action of the respondents in not paying compensation for the land acquired to an extent of 42 cents in R.S.No.137/2, Patamata Village, Vijayawada, the present writ petition is filed.

Counter is filed by the 2nd respondent stating that 80ft wide road was laid near Fun Time Club in RTC Colony connecting from Gurunanak Colony Main Road to Panta Kaluva and also admitted that petitioners have voluntarily given the said land for the purpose of laying the said road since they have unauthorizedly divided the remaining part of their land leaving access to 80 ft road and have sold out the sites and the owners of the property who purchased the sites from the petitioners were also sanctioned permissions for construction of building. It is further stated that petitioners have enjoyed the benefit of the formation of the road without taking the burden of developing the road and other amenities. Earlier when the petitioners filed W.P.No.19123/2003, this Court disposed of the said writ petition directing the petitioners to approach the Competent Civil Court. But the petitioners inspite of clear direction from this Court does not choose to approach the Civil Court and filed the present writ petition. In the counter, the contention of the petitioners that they are equally placed as the petitioners in W.P.No.17521/2002 is denied stating that the petitioners herein have enjoyed the benefit in the remaining portion of the site after leaving the road formation portion whereas the owners of the site covered under W.P.No.17521/02 have lost almost all the site they owned in the formation of the road and hence their case was considered for allotment of alternative site and for other concessions in

terms of the provisions under Section 146 and 148 (3) of Hyderabad Municipal Corporation Act, 1955 duly obtaining necessary approval from the Government. Hence sought for dismissal of the writ petition.

Heard Sri A. Satyanarayana for the petitioner, Sri T.Balaswamy for respondent No.1 and Smt K. Manideepika for respondent No.2.

Learned counsel for the petitioners submits that the petitioners cannot be discriminated from the petitioners in W.P.No.17521/2002 by paying compensation to them for the land acquired, though the land of the both the petitioners fall in the same survey number and is acquired for formation of 80 feet road. He also submits that earlier writ petition i.e., W.P.No.19123/2003 is filed when the respondents tried to lay road and drainage line in the petitioners' property but the present writ petition is filed for the payment of compensation. He further submits that as on the date road was laid, petitioners have not applied for layout leaving the land for formation of the road.

On the other hand, learned counsel appearing for the respondents submits that the petitioners have sold away the subject land to other persons by showing 80 ft wide road and the same regularised vide RNP.No.10/2009 at the instance of the purchasers by placing reliance on the sale deeds produced along with the record. More so, this Court has already disposed of the earlier writ petition filed by the petitioners for the same relief, directing them to approach the Competent Civil Court and having waited for 5 years, they cannot maintain the writ petition. He also submits that when petitioners have sold their land by showing 80 ft road, they cannot claim compensation for the road already left.

In the present case, it is in no doubt that 80 ft wide road was laid from the petitioners land. In the counter it is stated that the petitioners have voluntarily given the land for the purpose of formation of the road since they unauthorisedly divided their remaining part of the site leaving access to this 80 ft road and also sold out the sites. The alternative

site was allotted to the petitioners in W.P.No.17521/2002 who are the adjacent owners in the same survey number, since they have lost entire land in the formation of the road whereas in the present case, petitioners have got the benefit of formation of the road. In this case, from the file produced by the learned Standing counsel for the respondents, it is to be seen that all the purchasers who purchased the plots from the petitioners sought for regularisation of the layout by showing 80 feet road and the same was approved. Though there was a direction to the petitioners to approach the Civil court in the earlier writ petition, this Court has not granted any relief. As such, the petitioners should have approached the Civil Court for claiming compensation but instead they filed the fresh writ petition for payment of compensation. If they are aggrieved by the order in the earlier writ petition, they could have taken further steps instead they kept silent and the order in the writ petition has become final. It is admitted fact that sale deeds produced by the petitioners also show that there was an 80 ft road. Having left 80 ft road and basing on which, the layout was regularised, at this juncture, petitioners cannot claim for compensation and the fact that the land is sub-divided into plots is not disputed as the sale deeds were produced and the same is not disputed even by the petitioners.

In view of the above facts and circumstances, I do not see any merit in the writ petition.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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

A.RAJASHEKER REDDY,J

Date: 27.08.2015
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