

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.31106 OF 2011

ORDER

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The case of the petitioners is that they have purchased the plots in Currency Nagar, Vijayawada after verifying the legality of the title, approval of the layout etc and constructed houses in their respective plots and residing there. It is stated that the Master Plan of Vijayawada City was approved by the Government in G.O.Ms.No.958, Municipal Administration & Urban Development, dated 16.12.1969 and the Master Plan of Vijayawada, Guntur, Tenali, Mangalagiri Urban Development Authority (VGTM UDA) was approved by G.O.Ms.No.144 dated 03.03.1988. As per the said plan there is a 60 feet wide road which is connecting NH-5 200 feet wide road called Eluru Road and a part of the said road was occupied by the unofficial respondent by misrepresenting the official respondent that it is a private land. With regard to the same, the petitioners made representations to the official respondents stating that the 60 feet wide road connecting 200 feet wide road called Eluru Road is to be connected by acquiring the said land. But the official respondents without considering the same, got issued G.O.Ms.No.438, Municipal Administration & Urban Development Department, dated 11.10.2010 designating the site to an extent of 478.60 sq.meters in R.S.No.335/7C (P) of Gunadala, Vijayawada Municipal Corporation, Krishna District which is earmarked for 60 feet wide road for central commercial use in modification to the zonal development plan vide M.Z.D.P.No.02/2010/VJA City, subject to the conditions mentioned in the G.O. The said G.O. was issued in exercise of the powers conferred by sub-section (2) of Section 12 of Andhra Pradesh Urban Areas (Development) Act, 1975 (for short 'the Act'). Aggrieved by G.O.Ms.No.438 dated 11.10.2010, the present writ petition is filed.

Counter affidavit is filed by the 3rd respondent admitting that the proposed 60'-0" wide road connecting NH-5 was approved as per the Zonal Development Plan of Vijayawada by the Government vide G.O.Ms.No.674 dated 29.12.2006. The 3rd respondent denied the contention of the petitioner that the un-official respondent occupied the proposed 60'-0" wide and states

that the said land belongs to one Muttavarapu Srinivas Babu, Managing Director of Sri Swarna Home Pvt. Ltd which was purchased by him vide registered sale deed dated 20.11.1996. It is also stated that when Muttavarapu Srinivasa Babu submitted an application on 15.12.2009 for change of land use from 60'-0" wide road to central commercial use, the authorities after examining the proposal and after collecting necessary charges towards development charges has recommended the said proposal to the Government vide letter dated 10.02.2009. It is also denied that the official respondents have no authority to alter the 60'-0" wide road, but as per Section 12(1) of the Act, the authority may make such modification to the plan which in its opinion do not effect important alterations in the character of the plan. With regard to the same, the Government in its Memo dated 06.08.2010 issued notification under Section 12(2) of the APUA (Development) Act, 1975 calling objections and suggestions from the public. Thereafter, the Government in G.O.Ms.No.438, dated 11.10.2010 confirmed the draft variation, since no objections and suggestions have been received from the public within the stipulated period. It is also stated that the proposed 60'-0" road is not desirable to NH standards and therefore it is recommended to the Government to delete the said road and convert the same into central commercial use. It is further stated that the residents of currency nagar colony will not be affected in any way, if the unofficial respondents complete the construction in the said site, as there is an existing 40'-0' wide main road with 30'-0" wide cross roads in the currency nagar colony which is connected to NH-5 service road and the said 60'-0' wide road also joins a 100'-0' ZDP road which inturn joins 200'-0' wide road and ultimately sought for dismissal of the writ petition.

The 4th respondent also filed counter affidavit reiterating the contentions of the 3rd respondent.

This Court granted status-quo order on 28.11.2011 and the same was subsequently modified on 06.01.2012 permitting the 4th respondent to make constructions in accordance with law. Against the same W.A.No.115 of 2011 was filed and the same was dismissed.

The main grievance of the petitioners is that the 1st respondent has no power to modify the master plan as the modifications alter the character of the

plan. But as per Section 12(2) of the Act:

“The Government may suo motu or on a reference from the authority make any modification to the plan, whether such modifications are of the nature specified in sub-section (1) or otherwise”.

Heard Sri Ravi Kondaveeti, learned counsel for the petitioners, learned Government Pleader Municipal Administration and Smt K.Manideepika, learned counsel for 3rd respondent.

A reading of the said provision goes to show that the Government has power to alter the master plan and more so, before modifying the master plan, the same was published in Gazette calling for objections and suggestions from the public, but no objections were received from public. The 3rd respondent in his counter stated that there are already two roads connecting NH-5 and that the proposed 60'-0' road is one more entry to NH-5 which is not desirable to NH standards. It is also stated that after issuing public notice and after considering the recommendations of the 3rd respondent, the alteration was sought for and the same was approved by the Government by way of impugned G.O.Ms.No.438 dated 11.10.2010. The petitioners have not shown violation of any provision of law in issuing the impugned proceedings.

In view of the above facts and circumstances, I do not see any merit in the writ petition. Accordingly, the writ petition is dismissed. No costs.

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

A.RAJASHEKER REDDY,J

Date: 14.10.2015

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