

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.20288 OF 2010

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner to declare the action of the 1st respondent in passing an order under the guise of final notice vide No.216/Layout/ Narayanapuram, dated 12.08.2010, which is served on the petitioner on 13.08.2010 in the evening, as illegal and arbitrary, and consequently set aside the same.

The case of the petitioner is that he is the owner and GPA holder of different extents of land admeasuring an extent of Acs.1053.00 cents in different survey numbers situated at Rachakonda Village, Narayanpur Mandal, Nalgonda District. On the proposed layout filed by the petitioner to develop the land, the 2nd respondent – Gram Panchayat, Rachakonda Village, Narayanpur Mandal, has approved the same. The petitioner started developmental activities in the said land by investing huge amounts. While so, the 1st respondent issued notice to the petitioner stating that the developmental activities taken up by the petitioner are in violation of G.O.Ms.No.67 (PR & RD), dated 26.02.2002, and asked the petitioner to rectify the five irregularities pointed out by it within thirty days from the date of receipt of that notice. The petitioner offered its explanation on 20.07.2010. Instead of passing orders on the explanation submitted by the petitioner, the

1st respondent straightaway issued final notice, dated 12.08.2010, which was served on the petitioner only on 13.08.2010 in the evening, asking the petitioner to comply with the conditions raised in the impugned final notice by 16.08.2010 till 5.00 p.m., or else on 17.08.2010 by 10.30 a.m., all the developmental works would be removed by the 1st respondent. Challenging the same, the petitioner

has filed the present writ petition.

The 2nd respondent filed a counter affidavit denying the ownership of the petitioner and stated that the petitioner has taken up developmental activities and sold the plots in violation of G.O.Ms.No.67, dated 26.02.2002. It is further stated that without complying the deviations pointed out in the notices, the petitioner has filed this writ petition.

On 16.08.2010, while ordering notice before admission, this Court directed that no action should be taken against the petitioner pursuant to the notice, dated 12.08.2010, and thereafter, on 26.04.2011, this Court directed the petitioner not to take any development.

In the impugned notice, the 2nd respondent directed the petitioner as follows:

“Therefore a final opportunity is provided to you to complete the above said conditions on before 16.08.2010 at 5 PM. All the documents shall be submitted to the Extension Officer (PR & RD) M.P.P., Narayanapuram.

Failing which, it will be presumed that your layout (Prestige Avenue Limited Ocian Prestige) has been violated (G.O.Ms.No.67) the conditions, layout boundaries and ways will be removed on 17.08.2010 at 10.30 AM. Your will be held responsible for the subsequent actions.”

It is submitted by the learned counsel for petitioner that the manner in which the authorities are directed the petitioner to complete the requirements, shows their intention to defeat the interest of the petitioner.

After hearing the arguments of both sides and after perusing the entire record, this Court is of the view that, necessarily, the petitioner should be given an opportunity to comply with the conditions pointed out by the authorities concerned. I deem it appropriate to dispose of the writ petition with the following directions:

1. The petitioner is directed to comply with the conditions pointed out by the respondents in the final notice, dated 12.08.2010, or submit his explanation for non-compliance of the conditions in the said notice, within a period of two months from the date of receipt of a copy of this order.
2. On submission of such explanation, the authorities concerned are directed to pass appropriate orders on the same in accordance with law, after perusal of entire documents and also the explanation submitted by the petitioner, within a period of one month thereafter.
3. Status quo shall be maintained in respect of the land in question, till passing of orders by the respondents.

Accordingly, the Writ petition is disposed of. There shall be no orders as to costs. Consequently, the miscellaneous petition, if any pending, shall stand closed.

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RAJA ELANGO, J

January 27, 2015.
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