

W.P.Nos.30782, 30786, 30795, 30804, 30812, 30814, 30827, 30883, 30897, 31037 and 31293 of 2012

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Between:

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N.Nagaraju. ...Petitioner

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And

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Greater Visakhapatnam Municipal Corporation,
Rep. by its Commissioner, Visakhapatnam and
another. ..Respondents

Date of Judgment pronounced: 18.08.2015

Submitted for Approval:

The Hon'ble Sri Justice A.Rajasheker Reddy

1. Whether Reporters of Local newspapers
May be allowed to see the Judgments? Yes/No

2. Whether the copies of judgment may be
Marked to Law Reporters/Journals Yes/No

3. Whether His Lordship wish to see the fair
Copy of the Judgment? Yes/No

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COMMON ORDER :

As the issue involved in all these writ petitions is one and the same, they are being disposed of by way of this common order.

2. All these writ petitions are filed assailing the proceedings issued by the first respondent, revoking the BPS proceedings dated 30.12.2010 under different file numbers by exercising power under Section 450 of the Hyderabad Municipal Corporation Act, 1955, by virtue of which the structures belonging to the petitioners were regularized.

3. The case of petitioners in all these cases is that the first respondent having considered their cases and having found to be eligible for regularization, have issued BPS proceedings regularizing their structures by virtue of BPS proceedings dated 30.12.2010. Now, the only ground on which the said BPS proceedings dated 30.12.2010 have been revoked is basing on the orders passed by this Court in Review W.P.M.P.No.1540 of 2009 in W.A.No.1840 of 2008 dated 30.04.2011. Against the said orders dated 13.04.2011, S.L.P (Civil) No.3489 of 2012

has been filed and leave has been granted. Civil Appeal No.10404 of 2014 arising out of S.L.P.(Civil) No.3489 of 2012 has been allowed setting aside the impugned order of this Court passed in Review Petition W.P.M.P.No.1540/2009 in W.A.No.1840 of 2008 dated 30.04.2011.

4. Heard Sri C.Raghu, learned counsel for the petitioners, Sri S.Laxminarayana Reddy, learned Standing Counsel for the first respondent and Sri G.Rama Gopal, learned counsel for the 2nd respondent.

5. Learned counsel for the petitioners has advanced his arguments reiterating the averments in the writ affidavits.

6. Learned Standing Counsel for the first respondent would submit that in view of the orders passed by the Hon'ble Supreme Court in Civil Appeal No.10404 of 2014, the impugned proceedings in these writ petitions are liable to be set aside.

7. Learned Counsel for the 2nd respondent submits that though order in Review in W.P.M.P.No.1540 of 2009 is set aside by the Hon'ble Apex Court to the extent of determining sale consideration, the same is remitted back. He also taken note of pendency of two writ petitions i.e., W.P.No.1216 of 2004 and W.P.No.735 of 2007, which are filed challenging G.O.Ms.No.340, dated 05.03.2003 and also G.O.Ms.No.455, Revenue dated 29.07.2002.

8. The only ground on which the impugned orders have been passed in view of orders passed by this Court in Review W.P.M.P.No.1540 of 2009 in W.A.No.1840 of 2008. The impugned orders have been passed revoking the regularization proceedings granted in favour of the petitioners. When once the Civil Appeal No.10404 of 2014 arising out of SLP (Civil) No.3489 of 2012 has been allowed and the order of review in W.P.M.P.No.1540 of 2009 in W.A.No.1840 of 2008, dated 30.04.2011 has been set aside by the Apex Court, it has become final. Though it is submitted by the learned counsel for the 2nd respondent that the writ appeals are pending, they are pending only to the limited extent of payment of balance of sale consideration. However, they will not affect the BPS regularization proceedings in favour of the petitioners.

9. Learned counsel for the 2nd respondent would submit that the petitioner in W.P.No.30897 of 2012 is not a member of the society and is nothing to do with the said society. But the fact remains that the impugned order in this writ petition is also basing on the orders passed in Review W.P.M.P.No.1540 of 2009 in W.A.No.1840 of 2008. When once the order under Review has been set aside by the Hon'ble Apex Court, the impugned orders in these writ petitions have to be set aside.

In view of the orders of the Hon'ble Supreme Court in Civil Appeal No.10404 of 2014 arising out of SLP (Civil) No.3489 of 2012, which has been allowed and the order of review in W.P.M.P.No.1540 of 2009 in W.A.No.1840 of 2008, dated 30.04.2011 has been set aside, the impugned BPS proceedings in these writ petitions are liable to be set aside and are accordingly set aside.

Accordingly, all these writ petitions are allowed.

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

18.08.2015.
KVS

A.RAJASHEKER
REDDY, J

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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KVS

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