

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NOs.27610 and 27744 of 2007

Date: 01.04.2015

W.P.No.27610 of 2007

Between:

Adusu Chandrasekhar, s/o. Srinivas,
Aged 42 years, R/o.D.No.12-17/1,
B.C. Colony, Aganampudi (PO),
Gajuwaka Mandal, Visakhapatnam
and others.

.. Petitioners

AND

The Special Grade Dy.Collector (LA),
Steel Plant, Visakhapatnam and others.

.. Respondents

W.P.No.27744 of 2007

Between:

Dasari Appala Raju, s/o. Appala Naidu,
Aged about 31 years, Occu: Labour,

R/o. Donkada Village, Aganampudi
RHC-I, Pedamadaka Post, Gajuwaka
Mandal, Visakhapatnam District and others.

.. Petitioners

AND

The Govt. of Andhra Pradesh, rep.by the
Special Grade Dy.Collector,
Steel Plant (L.A.), Visakhapatnam and others.

.. Respondents

The Court made the following:

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COMMON ORDER:

In these two writ petitions petitioners are the persons, who were displaced from their

lands and/or houses, which were acquired for the purpose of establishment of Steel Plant in Visakhapatnam. As payment of compensation to land acquired only is not commensurate to the loss caused, the Government has come out with Rehabilitation and Resettlement Scheme in addition to payment of compensation to the properties acquired. In the said manner, each family was proposed house site plot of 107 square yards. For this purpose, five residential lay outs were drawn and accordingly, allotments were made. As the subject matter of two writ petitions is same, both writ petitions are considered and disposed of by this order.

2. In W.P.No.27610 of 2007, petitioners 1 to 5 are the persons belonging to the project displaced families and they were allotted house site pattas. Petitioners 6 and 7 are subsequent purchasers from the original allottees. In this writ petition the orders impugned are cancellation of house site plots allotted to them by order dated 23.10.2007. The reason assigned was that the allottees are not residing in the allotted plots and violated the conditions of allotment of house site plots and the allotted area is lying adjacent to the green belt and the allottees got the plots in binami names and sold the plots to the others. Stereo typed orders were passed with reference to all the petitioners and several others. The petitioners in W.P.No.27744 of 2007 got impleaded as respondents in W.P.No.27601 of 2007 opposing the prayer sought by them.

3. Petitioners in W.P.No.27744 of 2007 are the members of project displaced families. Parents of these petitioners were allotted as per the scheme. The claim of the petitioners is that they are the major married family members and they have their own families and, therefore, they should also be given house site pattas in addition to the pattas already granted to their parents and other elder members of the families. Adjacent to plots already allotted to the elder members of the families/parents, small constructions were made and petitioners are living. Their request for allotment of house site plots to them in Sy.No.207 is not considered. They have also noticed that some illegal constructions were made by the persons who are not entitled and the persons who were allotted in this manner are not residing in allotted plots. There are several binami transactions and persons in whose name the plots allotted subsequently sold and others are in possession and enjoyment. They have instituted writ petition claiming for direction to allot plots in

Sy.No.207 of Donkada Village, Aganampudi PHC-I, Padamadaka Post, Gazuwaka Mandal, Visakhapatnam. Initially, writ petition was instituted by 15 petitioners. Out of 15 petitioners, petitioners 2, 4, 5, 8, 10, 11, 13 and 14 have withdrawn during the pendency of the writ petition (WP No.27744 of 2007) as they were given house site plots. So far no plots are allotted to the other petitioners.

4. Heard learned counsels Sri P.B.Vijay Kumar and Sri V.Raghu for respective parties and learned Assistant Government Pleader for State.

5. Learned counsel Sri P.B.Vijay Kumar for the petitioners in W.P.No.27610 of 2007, contends that the order impugned is liable to be set aside on the sole ground that there cannot be common reasons assigned to all the allottees to cancel the plots allotted. Petitioners 1 to 5 are the original allottees and they are in occupation and enjoyment of the said plots. Therefore, the condition of alienation and condition of not residing and condition of binami transactions are not attracted to them. Learned counsel further contends that as per the scheme envisaged by the Government, the loan facility is also provided, but no loan was sanctioned to the petitioners on the ground that the plots are adjacent to the green belt and no houses can be constructed and no permissions can be granted. There was also civil litigation with reference to the construction of the houses in the area or since plots are kept idle some other illegal constructions were made. Thus, these are the reasons for not undertaking constructions of the houses in the plots allotted to them and as and when required permissions are granted and loan facilities are provided, they would undertake constructions. Thus, without examining the allotments case by case, stereo typed order was passed which would clearly disclose non-application of mind and mechanical disposal of the issue and in such a manner, illegally petitioners are sought to be thrown out of the plots allotted to them.

6. Learned counsel further submits that since allotment of plots are made under the Rehabilitation and Resettlement Scheme and not as a Social Welfare measure, the restraint of alienation of the lands ought not to have been applied, but illegally the said conditions were imposed and, therefore, the alienations made by some of the allottees held to be illegal and that is one of the reasons assigned for cancellation of the house site plots. However, recently, the Chief Commissioner of Land

Administration passed orders vide reference No.B3/742/2012, dated 07.02.2014 directing the District Collector, Visakhapatnam District not to notify these house sites under 22-A of the Registration Act as B.S.O. 21 is not attracted to such house site plots. Thus, the other embargo also lifted and therefore the order impugned is not sustainable and liable to be set aside.

7. Learned counsel Sri V.Raghu, appearing for respondents in W.P.No.27610 of 2007 and for petitioners in W.P.No.27744 of 2007, submits that some illegal allotments were made ignoring the persons who are entitled for such allotments and others were allotted plots who are actually not entitled, that certain binami transactions were made and plots were allotted in the name of persons who died long ago. All this would show that allotments were illegal and petitioners are deprived of such allotments though they have fulfilled all the required conditions. On their complaints the matter was enquired into and orders impugned in the writ petition are passed.

8. As submitted by the counsels in both writ petitions, some of the petitioners in W.P.No.27744 of 2007 were already allotted house site plots. Learned counsel Sri Vijay Kumar submits that in fact there are plots identified for allotment of house site plots to the petitioners and as and when they approach the competent authority, the plots would be allotted to them.

9. Having regard to the subsequent decision of the Chief Commissioner of Land Administration, dated 07.02.2014, the bar of alienation of plots got removed and, therefore, the alienation made in favour of the writ petitioners 6 and 7 cannot be declared as illegal. With reference to the other objections, as noticed from the order impugned in the writ petition, the allegations are common to all the persons. As noticed from the facts and submissions of learned counsel Sri P.B.Vijay Kumar, no common attribute can be made to all allottees. No such vague and general allegations can be made with reference to violation of any of the conditions of assignment of house site patta. The explanation offered by petitioners in W.P.No.27610 of 2007 is a plausible explanation requiring consideration. Therefore, the order impugned in the writ petition (W.P.No.27610 of 2007) is not sustainable and liable to be set aside on that ground alone. However, it is open to the competent

authority to specifically identify the lapses in allotment, such as, a person is not entitled for allotment or binami transactions were made or person in whose name allotment was made died long ago; that even though a person was validly allotted but for no valid reason has not constructed the house, and on such identification put the persons concerned on notice, consider their explanation and take appropriate action as warranted by law. While considering, it is also necessary for the competent authority to consider the grievances of the petitioners in W.P.No.27601 of 2007 that for genuine reasons houses could not be constructed and if the reasons assigned by them are acceptable, they should be given opportunity to undertake construction of the plots if otherwise permissible within further fixed time frame. The petitioners in W.P.No.27744 of 2007 should also be put on notice and be given an opportunity of hearing while taking action as indicated above. To the extent indicated, W.P.No.27610 of 2007 is allowed.

10. In W.P.No.27744 of 2007, the grievance of the remaining petitioners is that they are entitled for allotment of house plots and illegally they are deprived of such allotments and illegally others were allotted house plots who were not entitled. As seen from the record, some of them were already allotted plots.

11. Having regard to the fact that the petitioners' families were displaced long ago, it is unfortunate that appropriate steps were not taken for consideration of house site plots as promised by the Government. Therefore, expeditious steps should be taken for allotment of plots to the petitioners after verifying the eligibility. The petitioners are directed to submit fresh representations enclosing all the required documents in support of their claim for entitlement of allotment of house site plots and on receipt of such representation, the Special Officer, Steel Plant (Land Acquisition), Government of Andhra Pradesh, Visakhapatnam, shall take expeditious steps for allotment of the house site plots, preferably within a period of four weeks from the date of receipt of such representation. If the petitioners have any subsisting grievance, it is open to them to work out their remedies. The W.P.No.27744 of 2007 is disposed of accordingly.

12. Accordingly, W.P.No.27610 of 2007 is allowed and W.P.No.27744 of 2007 is

disposed of. There shall be no order as to costs.

Miscellaneous petitions if any pending in the writ petitions shall stand closed.

_____**JUSTICE P.NAVEEN RAO**

Date : 01.04.2015

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