

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.18830 OF 2012

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ORDER:

The case of the petitioners is that petitioner No.2 along with petitioner Nos.1 and 3 jointly purchased the plot No.75/part, admeasuring 113.3 Sq.Ys in Sy.No.653, situated at Brindavan Colony, Ameenpur Village, Patancheru Mandal, Medak District by virtue of registered sale deed on 09.08.2004 executed by the original vendor and that from the date of purchase all the petitioners are in possession and occupation as absolute owners without interruption from any quarter. While so, on 09.06.2012, the staff of respondent No.3 came into the plot and started digging into open plot of the petitioners without any right over the same. Immediately, on 11.06.2012, the petitioners made a representation to respondents 1 and 2 regarding the illegal interference of respondent No.3. In spite of representation made by the petitioners, so far no action has been initiated. Having no other go, the petitioners filed the present writ petition.

The 3rd respondent filed counter stating that the Gram Panchayat has sanctioned lay out in Sy.No.659 to an extent of Ac.2.13 and in Sy.No.653 to an extent of Ac.2.26 admeasuring total Ac.4.39 guntas in the limits of Gram Panchayat, Ameenpur on 15.10.1978 through the resolution No.3 by the Sarpanch, Gram Panchayat, Ameenpur. As per the sanctioned layout there are 82 plots proposed in the said lay out, road area shown as 640284 Sq.ys. and open area shown as 2407.90 Sq.Ys. It is further stated that the vendors of the petitioners have sold out the plots as per their wish but not as per the sanctioned lay out plan; that there is 10% open place earmarked for public utility in the sanctioned lay out, but now there is no land kept for open for public purpose; and that the petitioners' vendor by dividing

the plots as parts has encroached the open place and executed the documents in favour of petitioners and others. It is also stated that petitioners' vendor and petitioners have no right to sell the open place earmarked for public purpose and that as per G.O.Ms.No.67, PR and RD (Relief) Department, dated 26.02.2002, layout and building rules were issued. Under rule 22 sub-rule(7) of the rules, it is clearly mentioned that all the roads and open spaces such as parks and play grounds earmarked in accordance with these rules in a layout which is approved by the Gram Panchayat shall automatically stand transferred free of cost and vests with the gram panchayat free from all encumbrances. But, in the present by colluding with the petitioner the vendor of the petitioners has grabbed the open space earmarked for public purpose without any right over the public place. It is further submitted that the Gram Panchayat has proposed to construct underground storage water sump in the open space earmarked in Sy.No.653 and 659 sanctioned layout area for public utility purpose on 11.06.2012, the petitioner has obstructed the work of underground sump for water supply storage and approached this Court without any right.

Learned counsel for the petitioner submits that petitioner purchased the subject land by way of registered sale deed and that the respondents cannot evict the petitioner without following due process of law.

Learned counsel for the respondents submits that after making layout the open spaces and roads are to be handed over to the Gram Panchayat as per the rules and that the petitioner without verifying the sanctioned layout has purchased the plot and the same is disputed by the petitioner.

These all are disputed questions of fact which cannot be

decided in the writ petition by exercising jurisdiction under Article 226 of the Constitution of India. In view of the same, I do not see any merits in the writ petition.

Accordingly, the writ petition is dismissed. However it is open for the petitioner to approach Civil Court for declaration of the rights and the same may be considered by the Civil Court without being influenced by the observations made in this writ petition. No costs.

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

A.RAJASHEKER REDDY, J

25.08.2015
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