

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.39306 OF 2012

ORDER

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The case of the petitioner is that the 2nd respondent which is constituted under the Andhra Pradesh Urban Areas (Development) Act, 1975 for the purpose of providing integrated development of urban agglomeration in Vijayawada and neighbouring areas acquired an extent of Ac.159.43 cents of land in Sy.No.29 (part) situated in Payakapuram of Vijayawada Municipal Corporation under the provisions of Land Acquisition Act in the year 1986. Thereafter, a comprehensive layout was prepared for an extent of Ac.137.83 cents consisting of residential plots of different categories like EWS, LIG and MIG etc and a public notification was issued on 21.10.1987 in the news papers for allotment of plots to the public on lottery basis. Pursuant to the said publication, the petitioner submitted his application for allotment of plot and accordingly, the 2nd respondent passed resolution dated 15.02.1996 allotting the plot bearing No.EWS-411 admeasuring 200.62sq.yards determining the sale price at Rs.35,109/-. After payment of said consideration, the 2nd respondent executed sale deed dated 25.02.2004 conveying the said plot to the petitioner. Similarly, the 2nd respondent also acquired land at Mangalagiri Municipality and divided the same into plots under the nomenclature of Amaravathi Town Ship. The said plots were allotted and registered to different persons. While so, the 2nd respondent unilaterally cancelled the sale deeds executed in respect of 70 persons on the ground of identified irregularities in allotment. On the same ground, the sale deed executed in favour of the petitioner was also cancelled by the 2nd respondent vide Rc.No.A1/3463/04, dated 01.04.2006. Against the same, petitioner filed W.P.No.8487 of 2006. The 2nd respondent also cancelled the sale deeds executed and registered in favour of 24 persons in respect of Amaravathi Town ship

on similar allegations. Aggrieved by the action of the 2nd respondent, the plot owners filed different writ petitions and this Court by common order dated 24.03.2008, quashed the orders of cancellation giving liberty to the 2nd respondent to avail remedies available under law. Thereafter, the 2nd respondent filed suit in O.S.No.231 of 2010, on the file of III Additional Senior Civil Judge, Vijayawada for cancellation of sale deed dated 25.02.2004 executed in favour of the petitioner and for permanent injunction. Likewise, the 2nd respondent also filed different suits against different plot owners seeking same relief and the same are pending. The 2nd respondent also filed the suits before the Senior Civil Judge, Mangalagiri seeking cancellation of sale deeds pertaining to 24 plots in Amaravathi Town ship. The said suits were referred to District Legal Services Authority, Guntur for compromise. In view of the observations made by the Legal Services Authority to collect certain amounts and compromise the matter, the 2nd respondent in its board meeting dated 06.08.2009 resolved to send the report to the 1st respondent. Subsequently, the 1st respondent vide letter dated 16.02.2010, permitted the 2nd respondent to settle the issue subject to the condition that there should not be any financial loss to the 2nd respondent. Accordingly, the 2nd respondent in its resolution No. 44, dated 04.06.2010, resolved to regularise the plots after collecting differential costs of rate fixed by it and actual cost during the time of registration and compounding interest of 15% and penalty of Rs.100/- per square yard and expenses incurred by it. Accordingly, compromise petitions were filed before Lok-Adalat and Awards were passed. Pursuant to the same, orders of regularization were issued to the respective owners of the plots of Amaravathi Town ship. Seeking extension of same benefit, the petitioner and other similarly situated persons submitted representations to the 2nd respondent. Pursuant to

the said representations, the 2nd respondent in its Board meeting on 04.02.2010 resolved to submit a report to the Government and accordingly sent a letter dated 27.08.2010 seeking to issue necessary orders. However, the 1st respondent did not issue any orders to the 2nd respondent so far. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 2nd respondent admitting that it has acquired an extent of Ac.159.43 cents at Payakapuram, Vijayawada under award No.5/86, dated 28.08.1986 and award No.1/87 dated 12.08.1987 under town expansion scheme/sites and service programme. It is also admitted that a comprehensive layout was prepared for an extent of Ac.137.83 cents which consists certain categories viz., EWS, LIG, MIG etc and that a public notification dated 21.10.1987 was published in the newspapers for allotment of plots to the general public on lottery basis and stated that the plots were allotted to the public till 1999. The 2nd respondent denied about the passing of resolution dated 15.02.1996 allotting the plot No.EWS-411 determining the sale price at Rs.35,109/- stating that there is no notification in the year 2004 for allotment of plot in favour of the petitioner and therefore the question of fixing the price of the plot does not arise. That the petitioner himself deposited an amount of Rs.35,109/- for the purpose of allotment of plot in Payakapuram. It is the case of the 2nd respondent that the then administrative officer B.V.Prasanna Kumar of the 2nd respondent issued allotment letter assigning Plot No.EWS-411 admeasuring 200.62 sq.yards in favour of the petitioner without any authority of law.

The 2nd respondent also acquired Ac.390.38 cents in Mangalagiri and Nowluru village of Guntur District during the year 1988 to 90 and divided the said land into plots under the name of Amaravathi Township and allotted the plots to the intended public and registered them.

It is stated that the officials of Vigilance and Enforcement Department conducted an enquiry during the month of July, 2004 with regard to allotment of plots in the said Payakapuram layout and identified certain irregularities in registration of 70 plots i.e., 25 plots relating to EWS category bearing Nos.383, 422, 40, 41, 91, 102, 106, 131, 181, 185, 187, 221, 224, 288, 289, 411, 432, 449, 450, 451, 452, 447, 471, 475 and 480; 37 plots in LIG category bearing Nos.42, 89, 96, 107, 123, 140, 165, 174, 177, 184, 193, 194, 200, 201, 202, 203, 208, 213, 221, 240, 247, 257, 259, 262, 278, 287, 290, 302, 308, 309, 321, 343, 346, 357, 376 and 389; and 8 plots in MIG category bearing Nos.84, 241, 246, 259, 304, 336, 354 and 361 in the said layout and submitted a report to the Government. The 1st respondent vide letter dated 07.10.2004 forwarded the Vigilance report No.98 dated 27.08.2004 to the 2nd respondent pertaining to irregularities. On perusal of the record it was found that the said 70 plots were irregularly registered by one B.V.Prasanna Kumar, administrative officer, as such he was suspended by the Government and subsequently he retired from service. It is also stated that the 2nd respondent also lodged complaints with the police against the individuals. It is also admitted that aggrieved by the cancellation of plots, petitioner approached this Court by way of W.P.No.8487/2006 wherein this Court disposed of the said writ petition quashing the cancellation orders and giving liberty to the respondent-authority to avail remedies under Section 31 of the Specific Relief Act, 1963.

It is also admitted that as the said 24 plots in Amaravathi township at Magalagiri were also irregularly registered, the 2nd respondent passed cancellation orders. Aggrieved by the said cancellation orders, some of the alleged plot owners filed writ petitions.

The 2nd respondent filed civil suits in the Civil Court, Vijayawada for cancellation of sale deeds of 70 plots in Payakapuram layout and 9

civil suits in the District Court, Guntur and 15 suits in the Mangalagiri Court for 24 plots irregularly registered in Amaravathi Township at Mangalagiri and the same are pending. As per the direction of this Court, when the 2nd respondent filed suits for cancellation of sale deeds of 24 irregularly registered plots before the District Court, Guntur and Civil Judge Court, Mangalagiri, the District Judge Guntur referred the suits to the District Legal Services Authority, Guntur for mediation and compromise. The District Legal Services Authority recommended for compromise, as such the 2nd respondent in its Board meeting held on 06.08.2009 resolved to send a report to the 1st respondent vide letter dated 22.09.2009; and the Government through letter dated 16.02.2010 permitted the Vice Chairman to settle the issue as advised by the Secretary, District Legal Services Authority, Guntur, subject to the condition that there shall not be any financial loss to the authority. Thereafter, the 2nd respondent placed the matter before the UDA Board meeting held on 04.08.2010 and the UDA in its resolution dated 04.06.2010 resolved to regularise the plots after collecting difference amount in the rate fixed by the UDA and the actual cost collected during the time of registration of plots and compounding interest of 15% and penalty of 100/- per sq.yards and the expenses incurred by UDA. Accordingly, compromise petitions were filed before the LokAdalat, Guntur and LokAdalat, Mangalagiri under Section 20 of the Legal Services Act, 1987 and Awards were also passed for regularisation of irregularly registered plots in Amaravathi Township, Mangalagiri. In the counter it is also admitted that the petitioner and other similarly situated persons submitted representation to the 2nd respondent seeking similar benefit of regularisation of their plots. The matter was placed before the UDA Board meeting held on 04.02.2010 and it was resolved to approve the proposal and submit a report to the 1st respondent. Accordingly, a detailed report was submitted to the 1st respondent vide

letter dated 27.08.2010 and the 1st respondent has examined the proposal and vide letter dated 23.06.2011 observed that there are no orders from the District Legal Services Authority for settlement and suits are pending before Civil Courts on the subject matter and therefore requested the 2nd respondent to submit the proposals after disposal of the pending court cases for taking necessary action. The Principal Senior Civil Judge, Vijayawada referred all the cases filed by the 2nd respondent relating to cancellation of sale deeds of Payakapuram layout, Vijayawada to the Mandal Legal Services Authority, Vijayawada and the Mandal Legal Services Authority after hearing the arguments passed the following order on 17.12.2011

“Plaintiff, Defendants and their counsel present. Defendants filed a memo stating that similar nature of matters at Amaravathi township were compromised before LokAdalat and they are willing to settle on similar amounts.”

As advised by the Mandal Legal Services Authority, Vijayawada, the matter was placed before the UDA Board meeting held on 23.05.2013 and the UDA, vide resolution No.155, dated 23.05.2013, rejected the proposal. However, on the request of the Government, a detailed report has been submitted to the Government vide letter dated 07.08.2013 and the same is pending before the Government. The 2nd respondent will take a decision after the same is examined by the Government.

Learned counsel for the petitioner submits that the petitioner filed representations seeking the same relief granted to other persons who were allotted plots in Amaravathi township. Since the 2nd respondent submitted a report to the Government, the 1st respondent may be directed to consider the report of the 2nd respondent and pass orders. He also submits that the suits filed by the 2nd respondent were also dismissed.

On the other hand, Smt K.Manideepika, learned Standing counsel for the 2nd respondent opposed the writ petition vehemently and submits that unless the Government takes a decision, the 2nd respondent cannot take any action in the matter.

Heard the learned Assistant Government Pleader for 1st respondent.

In this case, it is admitted that plot bearing No.EWS-411 was registered in the name of the petitioner by executing a registered sale deed and thereafter the same was cancelled by the 2nd respondent on the ground of irregularities. When the writ petitioner approached this Court by filing W.P.No.8487 of 2006 against the cancellation of the sale deed, this Court quashed the order of cancellation and gave liberty to the 2nd respondent to approach competent Civil Court under Section 31 of Specific Relief Act. Accordingly, suits were filed by the 2nd respondent in respect of Amaravathi township. Subsequently, on the advice of District Legal Services Authority, compromise petitions were filed before the LokAdalat and the matters were compromised. But, in the present case, since the suits are pending, the matter was referred to Mandal Legal Services Authority. The learned counsel for the petitioner submits that suits were dismissed. Be that as it may, the report submitted by the 2nd respondent is pending consideration with the 1st respondent and it is for the 1st respondent to take a decision in the matter.

In view of the above facts and circumstances, the writ petition is disposed of directing the 1st respondent to take a decision in the matter and thereafter the 2nd respondent is to act in accordance with the same. However, in case any decision is taken against the petitioner, it is open for the petitioner to challenge the same. No costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 07.07.2015
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