

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION Nos.25305 of 2010 & 15293 of 2008

COMMON ORDER :

As the identical issue involved in these writ petitions, they are being heard together and disposed of by way of this common order. The Petitioner and respondent are similar in both writ petitions.

2. The petitioner is the absolute owner, title holder and possessor of plot No.813/15/D in Sy.No.201/1&2, admeasuring 430 sq.yds at Srikrishna Devaraya Nagar, Saheb Nagar Kalan village of Hayathnagar Mandal, now part of B.N.Reddy Nagar Colony Phase-III, which was purchased under registered sale deed dated 19.11.1996 bearing Doc.No.4431/1996 registered in the office of Sub Registrar, Hyderabad, East from Sri Yamjala Mallaiah and 79 others through their G.P.A Holder Sri M.Narasimha Rao. The petitioner has constructed compound wall around the said plot. It is stated that the layout was approved by the then Gram Panchayat in April, 1982 and as per the same, houses have also been constructed. When respondent trying to demolish the compound wall constructed by the petitioner, he filed W.P.No.15293 of 2008. This Court, by order dated 16.07.2008 granted interim orders of status quo in W.P.M.P.No.19796 of 2008 in W.P.No.15293 of 2008 and the same are subsisting. When the petitioner applied for regularization of the plot under the Rules known as the Andhra Pradesh Regulation of Unapproved and Illegal Layout Rules, 2007 under G.O.Ms.No.902, Municipal Administration & Urban Development (M1), dated 31.12.2007, the same was rejected by way of impugned proceedings dated 11.12.2009 stating that

the Survey No.201/1 & 2 of Saheb Nagar Kalan (Village), Hayathnagar Mandal is government land (Prohibited area). Aggrieved by the same, the petitioner filed W.P.No.25305 of 2010.

3. Counter affidavit is filed by the respondent in W.P.No.15293 of 2008 stating that the plot which is claimed by the petitioner is open space ear marked for park as per the HUDA approved layout vide file No.9351/MPU/HUDA/80, in Sy.No.201/1 & 2 of Saheb Nagar Kalan Village and also constructed a compound wall around the said open space in order to protect from encroachments and sought for dismissal of the writ petition.

4. No counter affidavit is filed in W.P.No.25305 of 2010, but para-wise remarks were filed, which are similar to that of averments in the counter affidavit filed in W.P.No.15293 of 2008. It is stated that the application of the petitioner for regularization was rejected on the ground that the plot of the petitioner is a Government Land prohibited area/park.

5. Heard Sri J. Prabhakar, learned counsel for petitioner and Sri Pasham Krishna Reddy, learned Standing Counsel for the respondent Corporation.

6. Learned counsel for the petitioner submits that the area in which the plot of the petitioner is situated is a private land and not a prohibited area. He would further contend that the impugned order also does not indicate under which provision of law, the said land is a prohibited land.

7. On the other hand, Sri Pasham Krishna Reddy, learned Standing Counsel for the respondent Corporation submits that the alleged plot of the petitioner is earmarked for park in the HUDA approved layout and that it cannot be regularized, as such the

Corporation has rightly rejected the application.

8. A perusal of the impugned rejection order shows that the respondent has not assigned any reasons for such rejection. It only states that Sy.No.201/1 & 2 of Saheb Nagar Kalan is prohibited area, but it does not indicate under which provision of law it is prohibited and for what purpose, though in the counter it is stated that the said area is earmarked for park. It is to be seen that the impugned order should contain valid reasons, but the same shall not be supplemented by way of affidavit as held in case of **Mohinder Singh Gill and another v. The Chief Election Commissioner, New Delhi & Others**^[1].

In view of the above, without going into the merits of the case, the impugned order dated 11.12.2009 passed by the respondent Corporation is set aside only on the ground that it does not contain proper reasons. However, the respondent shall consider the application of the petitioner afresh and pass reasoned order in accordance with law. It is open for the petitioner to file further representation, if the petitioner is so advised, within a period of four (4) weeks from today, and the respondent may consider the same. Since already order of status quo is granted in W.P.M.P.No.19796 of 2008 in W.P.No.15293 of 2008 and the same is pending, the same shall continue till the respondent considers the application of the petitioner afresh. If the petitioner fails to file any application within the stipulated period, the respondent shall pass appropriate orders basing on the material available on record.

With the above direction, both the writ petitions are disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in these writ

petitions, shall stand closed.

A.RAJASHEKER REDDY, J

23.09.2014
kvs

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