

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.28955 OF 2011

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ORDER:

This petition is filed for a writ of *Mandamus*, declaring the action of the respondents in proposing to construct a community hall in the open place in R.S.No.208/7, Kanuru Village, which was originally earmarked for developing a park, without calling for objections from the public for the particular usage of the open place, as shown in L.P.No.3/97 and without considering the representations dated 19.06.2009, 27.05.2010 and 14.10.2011, as illegal and arbitrary and for a consequential direction to the respondents to establish a park in the open place of R.S.No.208/7 (as per the L.P.No.3/97).

The petitioner is the resident of Tulasi Nagar, Kanuru Village and Grampanchayat, Krishna District for the last 14 years and the residents of Tulasi Nagar have constructed their houses after getting Tulasi Nagar Layout Plan No.3/97, being the total extent of Ac.1.80 cents. As per the said layout an open space of 440 sq.yds in R.S.No.208/7 was earmarked for park. Since no park is established even after 14 years, the petitioner made a representation on 19.06.2009 and 27.05.2010, requesting the 2nd respondent to establish a park in the said open place. Meanwhile, the 2nd respondent visited the open place and started getting it cleared. On questioning the petitioner came to know that a community hall is planned for construction in the open place. Immediately, the petitioner along with others sent a telegram to the respondents and also to the District Collector, Krishna District, seeking to stop the construction of community hall and also requesting to establish a park. It is also stated that the name of the community hall is shown on the foundation stone as "Sanath Nagar Community Hall", whereas the open place is a part of Tulasi Nagar layout No.3/97, which shows the negligent attitude of the authorities that without verifying the area for which the open place is meant for, the authorities are taking action to construct a community hall. It is further stated that in order to accommodate the residents of Sanathnagar, which is adjacent to Tulasi Nagar,

the respondents are trying to take away the open place i.e. park place of Tulasinagar layout. Petitioner also came to know that the Kanuru Grampanchayat passed resolution No.123/2011 to construct community hall in R.S.No.208/7 instead of park, without obtaining the views of the Tulasinagar residents. Aggrieved by the action of the 2nd respondent in trying to construct community hall in the place meant for park, present writ petition is filed.

The 4th respondent filed counter affidavit stating that the Kanuru Grampanchayat is a major Gram Panchayat and the population of the same is about 45,000; and that as the villagers, particularly the residents of Tulasinagar and Sanath nagar, represented and requested for construction of Community hall in their area, the Gram Panchayat, Kanuru considered the said representation and forwarded the same to the Hon'ble Minister for Secondary Education and the Hon'ble Minister allocated funds from the Constituency development fund, for construction of community hall. Thereafter, the Gram Panchayat identified the land in question in Tulasi Nagar layout, after obtaining the consent of local residents, for construction of community hall. Since no objections were received from any of the residents, even from the petitioner, the land was inspected by the Executive Engineer, Panchayat Raj Institutions, Vijayawada and administrative sanction was given with an estimated cost of Rs.9,00,000/-. It is also stated that the petitioner who is residing at a distance of about half a kilometer from the subject land, has no *locus standi* to question the development activity taken by the respondents. It is further stated that the entire common area of Ac.0-18 cents available in the subject area, the proposed construction for community hall would be in an extent of Ac.0.09 cents; as such, the remaining Ac.0.09 cents of land may be developed for park. It is stated that it is only after following the due process, the Gram Panchayat identified the land for the purpose of construction of community hall. It is further stated that the area which is identified for the purpose of construction of community hall is earmarked for 'common site' and since the proposed community hall is also for the common purpose of residents of Sanathnagar, Tulasinagar and also for the residents of other surrounding areas, no person will suffer loss because of the said construction. Hence, prayed to dismiss the writ petition.

Heard learned counsel for the petitioner, Smt.K.Mani Deepika, learned standing counsel for the 1st respondent and Sri Ravi Cheemalapati, learned Standing counsel for the 2nd respondent.

Admittedly as alleged by the petitioner, the 2nd respondent has made a proposal for construction of community hall in the open place shown in the layout No.3/97 issued by the 1st respondent with the funds of the Government. When once the open place shown in the layout is earmarked for developing a park, the local residents or authorities can only develop and use the said land for the purpose for which it was originally earmarked, i.e., for establishing a park in the instant case, as per the law laid down by the apex Court and also this Court. There is no dispute with regard to the fact that the open place left in R.S.No.208/7 in respect of Kanuru Village is earmarked for the purpose of developing a park. Hence, there can be no justification in the argument of the 2nd respondent that out of Ac.0.18 cents of open area, the authorities would be constructing a community hall in only Ac.0.09 cents and the remaining Ac.0.09 cents may be used for developing park.

Learned Standing Counsel for the 1st respondent states that as per the lay out issued by the 1st respondent, open place is meant only for park and the 2nd respondent also admits that the open place is meant for only a park, the same cannot be used for any other purpose except for developing the land for park.

In view of the same, I do not see any justification for the 2nd respondent to construct community hall in the open place meant for park in R.S.No.208/7 of Kanuru Village in respect of which a Layout No. 3/97 was also granted by the 1st respondent.

Accordingly, the writ petition is allowed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

11.06.2015

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