

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.16840 OF 2011

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the 1st respondent in interfering with the peaceful possession of petitioner house site, plot No.73 F, admeasuring 350 sq.ys. at Mallikarjunapuram Colony, Gorantla Village, Guntur District through the impugned notification issued in 'EENADU' dated 07.05.2011, Guntur Edition, as illegal and arbitrary and for a consequential direction to the 1st respondent not to interfere with the petitioner's house.

The case of the petitioner that she is the absolute owner of the house site at plot No.73 F, admeasuring 350 Sq.Ys., situated at Mallikarjunapuram Colony, Gorantla Village, Guntur District having purchased the same vide registered document No.1630/2010, dated 28.04.2010 and has been in peaceful possession and enjoyment without any interruption. It is also stated that originally, the 2nd respondent acquired Ac.123 of land and converted the same into house sites and also obtained approved lay out from the 1st respondent in the year 1989 vide proceedings dated 09.05.1989; that after complying with all statutory liabilities and obligations, the 2nd respondent-society sold out the plots to its members. So far petitioner's plot is concerned, on 29.03.2001, the 2nd respondent sold out the said plot to one V.Bhavani Prasad through registered sale deed dated 16.08.2000, thereafter the said original allottee sold out the said plot to Mr.A.Ranga Rao through registered document dated 27.05.2005 and again it was sold to Mr.K.Harikrishna through registered document dated 21.04.2006 and thereafter he sold the said land to Sri B.Venkateshwar Rao through registered document dated 31.12.2007 and the said person sold the plot to the petitioner's vendor Smt.Hymavathi through registered document dated 07.05.2008 and from her the petitioner purchased the subject property. It is also stated that at any point of time there is no

objection from the respondents on any aspect and that they never interfered with peaceful possession of house sites of its members. While so, the 1st respondent after a lapse of 22 years issued impugned paper notification published in 'EENADU', Guntur Edition on 07.05.2011 notifying legal action against the 2nd respondent-society for unauthorized sale of plots without proper grant of layout at Gorantla Gram Panchayat limits in D.No.106 and restraining the purchasers to make any construction and prohibiting grant of sanction permission. Aggrieved by the same, present writ petition is filed.

The 1st respondent filed counter affidavit stating that this authority has approved the layout plan for D.Nos.106, 107, 108/P, 109/P, 110, 111, 115(P), 116(P), 118(P), 122(P), 124(P), 125(P), 128(P), 129(P), 131, 133(P), 134(P), 135(P), 138(P), 148(P), 149(P), 150(P) of Gorantla Village and D.Nos. 303(P), 304(P), 305(P), 306(P), 307(P), 308(P), 309(P) & 296(P) of Reddypalem Village to an extent of Ac.123.62 cents showing 5% open space (i.e.Ac.6.18 cents) as per layout rules; that later the 2nd respondent-society has sold out some of the open spaces shown in the layout to the individuals as house plots by tampering records and approved layout plan which is against law and also violating rules and regulations; and that the lay out manipulated by the 2nd respondent-Society is having only 3.13% open space i.e. Ac.3.87 cents as against 5%, required as per layout rules and approved layout. It is also stated that this Authority has not given plot Nos.73/B, 73/C, 73/D, 73/E, 73/F, 73/G, 73/H, 73/1, 73/2, 73/3, 73/4 and 73/5 in layout open space Bit No.1 and Plot Nos.294, 294/B, 294/C, 294/D, 294/E, 294/F, 294/G and 294/H in Bit No.2 which are falling in 5% open space shown in L.P.No.50/89/VGT UDA and that before purchasing the plot, the petitioner would have obtained the NOC from the Authority; and that this numbering of plots in the layout given by the 2nd respondent-society clearly shows that the society has unauthorisedly converted the reserved open space into plots which is against law and also layout rules. It is further stated that this Authority has issued paper notification published in prominent Telugu dailies on 07.05.2011 & 08.05.2011 notifying the legal action against the society immediately after the matter/issue came to the notice of this authority, cautioning the public to be careful when they are purchasing the plots in the

said layout. It is also stated that the petitioner has no right to act in contravention of the rules and regulations of A.P.Urban Areas (Development) Act, 1975 and he is not entitled for any relief and finally, sought for dismissal of the writ petition.

Learned counsel for the petitioner submits that the 2nd respondent has obtained layout in LP.No.50/89/VGTM UDA, dated 09.05.1989, after complying with all the statutory obligations and the same is admitted by the 1st respondent. He further submits that though the subject land was transferred between petitioner's vendors through registered sale deeds, the 1st respondent has not raised any objection regarding all the sales made prior to the sale to the petitioner that too through registered sale deeds. He also submits that after lapse of 22 years the 1st respondent issued the impugned notice and that there is no privity of contract between the 1st respondent and purchasers of the society and that there is no dispute regarding title of the property sold to the petitioner.

On the other hand Smt.K.Mani Deepika, learned Standing Counsel for the 1st respondent submits that when there was unauthorized sale of open spaces in the layout granted by the 1st respondent, notice was published in the newspapers saying that permissions will not be granted to unauthorized sale of plots regarding open spaces.

A perusal of the impugned notification goes to show that the 2nd respondent has obtained layout vide LP.No.50/89, dated 09.05.1989 by approving various Door Numbers which were mentioned in the notification and in the said layout at two places, as per the rules, 5% (Ac.6.18 cents) of open space was left for public purpose and the said land belongs to Gram Panchayat. But, the 2nd respondent without any permission converted the said open space into plots and sold out a part of the said open space, unauthorisedly, which was left for public purpose. When the said action of the

2nd respondent was brought into the notice of the 1st respondent the 1st respondent published the impugned notification warning the purchasers not to purchase the said plots in the open places and also stating that no permission for construction of houses would be given in the plots stated in the notification.

In the counter also it is stated that the petitioner's site also falls in the open spaces which was left for public purpose. Though the petitioner states that through several transactions after obtaining necessary permissions she has purchased the subject plot and that by way of impugned notice the respondents have not declared anything except warning the public, in the counter it is clearly stated that the petitioner's plot forms part of open spaces left for public purpose in LP.No.50/89, dated 09.05.1989.

In view of the above, it is open for the petitioner to approach the 1st respondent by filing necessary representation along with documents showing that she has not purchased the land which forms part of open space meant for public purpose, within two weeks from the date of receipt of a copy of this order. On such representation being made by the petitioner the 1st respondent shall consider the same and pass orders in accordance with law. Till then *Status Quo* granted by this Court will continue. If petitioner fails to submit representation within the stipulated period, it is open for the 1st respondent to take appropriate action in accordance with law.

With the above direction, the writ petition is disposed of. 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

12.10.2015

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