

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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WRIT PETITION No. 12775 of 2012

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ORDER:

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The inaction of the respondents in permitting the petitioners to construct pucca houses in the place of huts at Dr.Ambedkar Nagar Slum, East Maredpally, Secunderabad is subject matter of challenge in the present writ petition.

The averments in the affidavit filed in support of the writ petition are as under:

With a view to provide house sites to the hut dwellers in the entire State, the Government of Andhra Pradesh, granted patta certificates in favour of the petitioners by allotting land admeasuring 60 square yards to each of the petitioners in Sy.No.77/B situated beyond Railway Nilayam, East Maredpally, Secunderabad. Subsequently, the respondents proposed to construct pucca houses by obtaining fund through HUDCO Scheme. The hut dwellers of Dr.Ambedkarnagar slum formed into a society and filed W.P.No.12716 of 1990 with an intention to expedite the process of construction of houses. The said writ petition was disposed of on 22.08.1994 directing the respondents therein to conduct a socio- economic survey and to construct G+1 houses. The petitioners therein were directed to co-operate with the process of construction.

The averments in the affidavit filed in support of the writ petition further say that the respondents proceeded with the construction of houses and allotted the same to hut dwellers leaving plot Nos.173 to 177, as a result of which, the petitioners were left without any pucca houses. Though the petitioners made several representations to the higher authorities explaining their grievance, there was no response from the respondents. The request of the petitioners to raise houses as per the lay out plan sanctioned by the G.H.M.C. was also not acceded to. Challenging the action of the respondents, the petitioners and others filed W.P.No.20643 of 1999, which was disposed of directing the respondents to expedite the construction of the houses in the plots of the petitioners.

After disposal of the writ petition, on 26.07.2011, the petitioners approached

the concerned authorities with a request to permit them to proceed with the construction as per the Layout plan sanctioned by G.H.M.C. Respondent No.3 addressed a letter to respondent No.2, who in turn forwarded the same to respondent No.1 for necessary orders in this regard. His inaction led to filing of the present writ petition.

Respondent No.1 filed his counter denying the averments made in the writ petition. It is his case that the HUDCO scheme under which the houses were constructed earlier, is no longer in existence and the petitioners cannot claim any benefit under the said scheme. It was further pleaded that the petitioners have not availed the scheme by handing over the site to the authorities, as such they cannot now claim any benefits under the said scheme. It was further averred in the counter that none of the respondents have not violated any of the conditions of the order and in the absence of any scheme in existence, construction of houses as sought for by the petitioners is not possible.

A perusal of the material placed before the Court would show that earlier the petitioners along with others filed W.P.No.20643 of 2009. In the said case, the Government Pleader on instructions stated that in Ambedkar Nagar Rail Nilayam Slum, house site pattas were given in three phases to 362 families. In order to resolve the dispute among the beneficiaries as some of the beneficiaries were found to be ineligible, the M.R.O., Marredpally and housing officials conducted a door-to-door survey. Apart from that, a committee called "Nija Nirdharana Sangam" was constituted by a local M.L.A. to enquire into the eligibility criteria for allotment to the residents of the said slum. In most of the cases, the finding of the enquiry conducted by the Revenue and Housing Officials tallied with that of "Nija Nirdharana Sangam". As there was no finality to the proceedings, another enquiry was conducted in the year, 1998 by the Revenue and Housing Officials. It was stated that the HUDCO scheme was duly completed except in the plot Nos.173 to 177, as the patta holders i.e. petitioners herein failed to vacate the plots enabling the authorities to construct houses under the said scheme. It was further brought to the notice of the Court that, in the earlier writ petition, it is mentioned that the revenue authorities moved a proposal to build G+3 houses in plot Nos.173 to 177 at Ambedkar Nagar Railway Nilayam Slum under "JNNURM" scheme and that the construction activities would be started by the M.C.H. after obtaining permission and taking possession of the land from the petitioners herein. In view of the assertions made by the respondents,

the said writ petition was disposed of directing the respondents to expedite the construction of the houses in the plots of the petitioners.

From the above, it is clear that even as on the date of passing of the order dated 18.02.2009 in W.P.No.20643 of 2009, the HUDCO scheme was no longer in existence but still the respondents undertook to construct the houses under JNNURM scheme. The same ground is reiterated stating that since HUDCO scheme is not in existence and as the construction under JNNURM scheme is to be undertaken by the Greater Hyderabad Municipal Corporation, Hyderabad, the respondents cannot be made liable for the inaction of the G.H.M.C. It is to be noted that even in the year 2009, HUDCO scheme was not in existence and in spite of the same, the respondents therein ie. District Collector, R.D.O., and Tahsildar, Marredpally assured the Court that construction would be started by the Municipal Corporation, Hyderabad, after obtaining permission and taking possession of the site from the petitioners herein. When the respondents herein, who were also shown as respondents in the earlier writ petition, have no authority to construct the houses under JNNURM scheme, nothing prevented them from bringing to the notice of the Court about their difficulties in raising construction. Having given assurance of pursuing the matter with the Municipal Corporation, Hyderabad, and having invited an order from the Court, which has become final, it is not be permissible for the respondents to go back on the said undertaking at this point of time.

As stated earlier, plot Nos.173 to 177 still remain in possession of the petitioners and they are agreeable for raising G+3 constructions under JNNURN scheme. The counsel for the petitioners submits that the petitioners are willing to surrender their plots, if the authorities come forward with construction of houses after obtaining necessary permission from all the authorities. In view of the above, the first respondent, in consultation with the Municipal Corporation and after obtaining necessary permission from the authorities concerned, shall take steps to start construction of houses in plot Nos.173 to 177 at the earliest, preferably, within a period of three to five months from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

29.10.2015

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