

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 37750 of 2012

-

ORDER :

-

This writ petition is filed seeking writ of mandamus declaring G.O.Ms.No.227 Municipal Administration & Urban Development-(I2), dated 21.06.2012 issued by the Government of Andhra Pradesh-1st respondent as illegal and arbitrary and opposed to the provisions of the Andhra Pradesh Urban Area (Development) Act, 1975 and the Andhra Pradesh Urban Area (Development) Rules.

2. It is the case of the petitioners that they are residents of various villages at Penuganchiprolu and Kanchikacherla Mandals, Krishna District and all are farmers by profession and their only source of livelihood is Agriculture. The petitioners owned certain extent of land which is detailed hereunder:

Sl.No.	Name of the Village	Name of the Mandal	Sy.No.	ExtentAc. Cents
1 st petitioner	Thotacharla	Penuganchiprolu	76	0.71 ¼
2 nd petitioner	Garagapadu	Penuganchiprolu	115-1A	1.05
3 rd petitioner	Gane Athkuru	Kanchikacharla	296/2451/4479	1.411.002.00
4 th petitioner	Kanchikacharla	Kanchikacharla	178-3A	4.97
5 th petitioner	Munnaluru	Kanchikacharla	52-252-3	1.221.21
6 th petitioner	Paritala	Kanchikacharla	714-3718-2725-2	0.521.000.49
7 th petitioner	Perakalapadu	Kanchikacharla	103/252/253/113352-253-1	1.050.940.980.671.761.95
8 th petitioner	Kunikipadu	Kanchikacharla	32-1B32-1C32-1D103-3	0.890.671.550.33
9 th petitioner	Paritala	Kanchikacharla	519-1519-2A575-3466-1466-2	3.303.712.963.203.60

The main grievance of the writ petitioners is that while issuing the impugned

G.O, the procedure as envisaged under Sections 6, 8 and 12 of the Andhra Pradesh Urban Areas (Development) Act, 1975 (for brevity 'the Act of 1975') has not been followed by the Government.

3. Counter affidavit is filed by the 1st respondent denying the averments in the affidavit filed in support of the writ petition stating that the 2nd respondent in his proposal dated 22.03.2011 has informed that the peripheral areas adjoining the Urban Development Authority jurisdiction is experiencing faster rate of urbanization and many unauthorized layouts and building activity is coming up leading to haphazard and unplanned development in those areas with substandard roads and lack of other infrastructure and that the local authorities are sanctioning such layouts and that the enforcement authority is unable to control the said unauthorized growth, as a result, the government is losing its legitimate income in the form of development charges. It is stated that for the said purpose, a detailed study on scientific basis was conducted by School of Planning & Architecture, Vijayawada and also studied the characteristics of urban & rural settlements falling in the existing jurisdiction as well as neighboring districts considering three parameters i.e., 1) Population structure and shift of occupation 2) Building density and 3) Travel characteristics. The study of delineation suggested two alternatives i.e., 1) Conservative area and 2) Moderate area. It is stated that the above proposal for Delineation/Re-organization of Urban Development area under the jurisdiction of Vijayawada Guntur Tenali Mangalagiri Urban Development Authority, Vijayawada has been placed before the Urban Development Authority in its meeting held on 18.03.2011 and the VGTM Urban Development Authority vide its resolution No.101 resolved to recommend the moderate delineation to Government for approval as per the suggestion received in the workshop vision 2030 conducted at Vijayawada on 20.01.2011. It is stated that the District Collector, Krishna District and the Chairman of VGTM Urban Development Authority, Vijayawada has therefore requested the government to approve the moderate area for delineation/re-organization of Urban Development Area with including certain areas in four Districts i.e., Krishna, Guntur, Prakasam and West Godavari in the jurisdiction of VGTM Urban Development Authority. It is stated that the Government in exercise of powers conferred by clause (b) of sub-section (2) of Section 13 of the Act of 1975 have issued orders vide G.O.Ms.No.227, MA &

UD (I2) Department dated 21.06.2012 extending the jurisdiction of VGTM Urban Development Authority duly including the Gudiwada, Nuzived Municipalities, Mailavaram & Nandigama Villages in Krishna District and Ponnuru, Sattenapally Municipalities, Edlapadu & Achampet Villages in Guntur Districts.

4. Heard Sri P.Durga Prasad, learned counsel for the petitioners and Smt. K.Mani Deepika, learned Standing Counsel for the 2nd respondent.

5. Learned counsel for the petitioners reiterating the averments in the writ affidavit submits that without holding any civic survey as contemplated under Section 6 of the Act of 1975 and without adhering to the provisions of Section 8, which mandate publication of a Draft Plan and publication of Notice for inviting objections and without giving any reasonable opportunity to the local authority and without following the procedure as stipulated under Section 12 of the Act of 1975, which obligate the publication of notice and inviting objections, the respondent authorities have resorted to the impugned action of inclusion of the villages which culminated in the impugned G.O. He would further submits that none of the above said provisions have been followed by the respondents while extending the Urban Area and that the same would adversely affect the villagers, as they have to pay huge amount in the form of development charges. The said impugned G.O also show considerable affect on the agricultural yield in the villages. He would further contend that absolutely there is no basis for the impugned action of extension of urban area by the impugned G.O. He would further contend that even in the initial area of the 2nd respondent authority itself there is no proper demarcation of zones like Industrial zone, Commercial zone and Agricultural zone till today, that no local bodies were consulted nor there was opinion obtained before issuing the impugned G.O and that no technical survey was conducted.

6. Smt. K.Mani Deepika, learned Standing Counsel for the 2nd respondent authority submits that the impugned G.O has been issued under Section 13(2) of the Act of 1975 for inclusion of certain areas into the jurisdiction of the 2nd respondent authority and that Chapter IV of the Act of 1975 deals with the said procedure. She further submits that Sections 6, 8 and 12 of the Act of 1975 falls under Chapter III, which deals with the master plan and zonal development plans. She further submits that the impugned G.O is not in respect of any

approval of master plan, but inclusion of certain areas into the jurisdiction of 2nd respondent authority as per Section 13(2)(b) of the Act of 1975 and that the writ petition is totally misconceived.

7. Sections 6 & 8 of Chapter III of the Act of 1975 reads as follows:

“6. Civic survey of and Master Plan for development area:

1. The Authority shall, as soon as may be, carry out a civic survey of and prepare a Master Plan for the development area concerned.
2. The Master Plan shall-
 - a. define the various zones into which the development area may be divided for the purposes of development and indicate the manner in which the land in each zone is proposed to be used (either after carrying out development thereon or otherwise) and the stages by which any such development shall be carried out; and
 - b. serve as a basic pattern of frame-work within which the zonal development plans of the various zones may be prepared.
3. The Master Plan may provide for any other matter which is necessary for the proper development of the development area.

8. Procedure to be followed in preparation and approval of plans:

1. In this section and in Sections 9, 10, 12 and 15 the word ‘plan’ means the Master Plan or the Zonal Development Plan for a zone or both, as the case may be.
2. Before finally submitting any plan to the Government for approval, the Authority shall prepare a plan in draft and publish it by making a copy thereof available for inspection publishing a notice in such form and manner as may be prescribed, inviting objections and suggestions from any person with respect to the draft plan before such date as may be specified in the notice.
3. The Authority shall also give reasonable opportunity to every local authority within whose local limits any land included in the plan is situated to make any representation with respect to the plan.
4. After considering all objections, suggestions and representations that may have been received by the Authority, the Authority shall finally prepare the plan and submit it to the Government for their approval.
5. The form and content of a plan and the procedure to be followed and all other

matters connected with the preparation, submission and approval of such plan shall be governed by such provisions, if any, as may be, prescribed in this behalf.”

The clause (b) of Sub-Section (2) of Section 13, Chapter IV of the Act of 1975 reads as follows:

“13. Declaration of development areas and development of land in those and other areas:

(1).....

(2).....

(a).

(b) include in development area any other area.”

In the instant case, it is to be seen that the impugned notification is not pertaining to any approval of master plan as contended by the learned Standing Counsel for the 2nd respondent authority. Neither in the affidavit filed by the petitioners nor the learned counsel for the petitioners is able to show what is the procedure is being violated while issuing the impugned notification under Section 13(2)(b) of the Act of 1975. A perusal of Section 13(2) (b) of the Act of 1975 makes it clear that the Government can include in development area any other area. It is nothing to do with the approval of master plan, as such, the question of following the procedure as envisaged under Sections 6 and 8 of the Act of 1975 does not arise at all. The writ petition filed by the petitioners is totally misconceived about the provisions of the Act of 1975. Since no provision of law is brought to my notice showing that the respondents have violated the same while issuing impugned notification, I do not see any merit in the writ petition, as such, the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, as and when any notifications are issued under Chapter III of the Act of 1975, it is open for the petitioners to challenge the same. There shall be no order as to costs. As a sequel thereto, miscellaneous applications, if any pending in this Writ Petition, shall stand closed.

22.09.2015.

KVS

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

—

—

—

—

—

—

—

—

—

—

—

—

—

—

—

—

—

—

—

W.P. No.37750 OF 2012

-
-
-
-
-
-
-
-
-
-
-

Date:22-09-2015

KVS

-
-
-
-
-
-
-
-

