

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.20138 of 2015

Date: 24.08.2015

Between :

Farahad Gew Irani S/o. G.Gew Shappurji Irani,
Occu: Business, r/o.1-3-139, Mani Road,
Kazipet, Warangal and another.

.... Petitioners

and

The State of Telangana, rep., by its Principal Secretary,
Municipal Administration, Secretariat, Hyderabad
and others.

.... Respondents

This Court made the following:

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ORDER :

This writ petition is filed praying for grant of following reliefs:

To issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents 1 to 3 in not taking any action against the 4th respondent for making illegal constructions in land in Sy.Nos.70 and 71 of Kadipikonda village, Warangal District, is illegal, arbitrary and contrary to the provisions of Hyderabad Municipal Corporation Act and consequently direct the 2nd respondent to consider the representations dated 26.05.2015 and 27.05.2015 filed by the petitioners and to take appropriate action against the 4th respondent.

2. Heard the learned counsel for petitioners, learned Government Pleader for respondent No.1 and counsel for respondent No.2 and with their consent the writ petition is taken up for final disposal at the stage of admission.

3. According to the petitioners, they are the owners and possessors of land in Sy.Nos.70 and 71 of Kadipikonda Village, Hanmakonda Mandal, Warangal District. Since the property of the petitioners is within the limits of Warangal Urban Agglomeration, on their behalf, their uncle by name Kaikursoo, filed declaration under Section 6(1) of the Urban Land and (Ceiling & Regulation) Act, 1976 (for short, 'the Act, 1976') declaring the Land, Building, Residential Houses (house bearing Nos.1-3-172 to 1-3-185) of Kadipikonda, then forming part of Warangal Agglomeration. The said declaration was referred to Special Deputy Tahsildar and Surveyor for verification. The then Special Officer (competent authority) passed orders under Section 8(4) of the Act, 1976 on 28.06.1985. Then the declarants filed appeal before the appellate authority. The appellate authority initially granted stay on 22.11.1985 and subsequently dismissed the said appeal on 28.06.1986. Aggrieved thereby, they filed W.P.No.13546 of 1986 and the same was allowed by this Court on 20.09.1989 setting aside the order of appellate authority and remitted the matter to the Special Officer for fresh disposal.

4. Learned counsel for the petitioners submits that on remitting the matter, the Special Officer again passed orders under section 8(4) of the Act, without considering the crucial aspects and certain issues. Aggrieved thereby, petitioners again filed appeal before the appellate authority. The appellate authority partly allowed the appeal by his order dated 17.12.1992. Aggrieved by same, they filed W.P.No.17291 of 1992 before this Court. This Court by order dated 04.04.1994 allowed the said writ petition and remanded the matter to the Special Officer. The matter was again taken up by the Special Officer and ultimately passed orders under Section 8(4) of the Act on 10.01.1995. Again they preferred appeal before the appellate authority against the orders dated 10.01.1995. The appellate authority disposed of the appeal on 22.04.1995. Aggrieved by the same, they filed W.P.No.9761 of 1995. During the pendency of the writ petition, Government of India repealed the Urban Land Ceiling Act, in the year 1999 w.e.f. 22.03.1999. The erstwhile State of Andhra Pradesh adopted the said Act w.e.f. 27.3.2008. As a

consequence to the said repealment Act, all the cases pending under the Urban Land Ceiling act, before any Court or authority have been abated. In view of the Repealment Act, this Court closed the W.P.No.9761 of 1995 on 05.02.2009.

5. Learned counsel for petitioners further submits that one of the tenants in collusion with the local leaders instigated hut dwellers to occupy their lands. Petitioners gave complaint to Police as well as revenue authorities. They also filed land grabbing case before the Special Tribunal against the land grabbers. While so, on 24.05.2015 the 4th respondent with intention to construct a temple engaged labour and started digging pits for foundation of construction of compound wall in their property without any right and title. Petitioners submitted representations on 26.05.2015 and 27.05.2015 requesting the 2nd respondent to take necessary action against the illegal constructions made in their land. Alleging that no action is taken on the representations submitted by the petitioners, this writ petition is filed.

6. When the matter is taken up for consideration, both counsel agreed for disposal of the writ petition with a direction to 2nd respondent to expeditiously dispose of the representations submitted by the petitioners.

7. Having regard to the same, without expression any opinion on merits, this writ petition is disposed of directing the 2nd respondent to consider the said representations and pass appropriate orders as warranted by law within a period of six weeks from the date of receipt of a copy of this order. The respondent corporation shall cause notice on the 4th respondent and give due opportunity of hearing and after considering the explanation/representation submitted by the 4th respondent, appropriate orders as warranted by law may be passed. It is made clear that whatever the rights available to the 4th respondent are preserved and he is entitled to place his defence before the 2nd respondent corporation as and when he receives notice.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.
There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

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