

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.39732 of 2015

Dated 08.12.2015

Between:

Smt.V.Raja Kumari and 2 others

... Petitioners

and

-
Greater Hyderabad Municipal Corporation
rep. by its Commissioner
Hyderabad and 4 others.

...Respondents

Counsel for the petitioners: Mr.Avinash Desai

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to set aside the proceeding in Lr.LRS/1789/CR-11/WZ/GHMC/2012, dated 09.03.2015, of respondent No.1- Corporation whereby it has cancelled proceeding No.LRS/1789/CR-11/West Zone/GHMC/2012, dated 23-11-2012, issued in favour of the Managing Director of respondent No.4.

I have heard Mr.Avinash Desai, learned Counsel for the petitioners, and Mr.Sampath

Prabhakar Reddy, learned Standing Counsel for Greater Hyderabad Municipal Corporation (GHMC) appearing for respondent No.1.

Respondent No.4 has converted an agricultural land into housing plots under an unauthorised lay out and sold plot Nos.417 and 418 to respondent No.5 under a registered sale deed. Respondent No.5 has, in turn, sold the said plots under two different sale deeds to the petitioners and another person viz., Mambapuram Rajasekhar. Evidently, on coming to know that the land earmarked for 60 feet road in the unapproved lay out was converted into Plot Nos.417 and 418, respondent No.2 has initiated proceedings for cancellation of the regularisation proceedings issued in favour of respondent No.4. After issuing a showcase notice to the said respondent, respondent No.2 has issued the impugned proceeding.

The learned Counsel for the petitioners has submitted that two plots were sold by respondent No.4 to respondent No.5 after regularisation by respondent No.1 under lay out regularisation scheme

and that having regularised the plots, it was not open to respondent No.2 to cancel the regularisation. He has further submitted that the property in question has changed hands twice with respondent No.4 selling the same to respondent No.5 initially and the latter selling the same to the petitioners and Mambapuram Rajasekhar subsequently. He has further submitted that even assuming that respondent Nos.1 and 2 have the power to cancel the regularisation of the above plots, the petitioners being the reputed owners are entitled to a notice and opportunity of being heard.

Opposing the above submissions, the learned Standing Counsel for respondent No.1- Corporation has submitted that as per the original unapproved layout, the 60 feet road was in existence with Plot Nos.401 and 402 on the western side and Plot Nos.416 and 408 on the eastern side; that respondent No.4 has registered the said four plots in the name of the respective purchasers by showing the 60 feet road as a boundary on one side to these plots; that on 02-05-2013, respondent No.4 has executed rectification deeds in respect of the said four plots by showing Plot Nos.417 and 418 in place

of 60 feet wide road and that on the same day, he executed two sale deeds in favour of respondent No.5. The learned Standing Counsel has, accordingly, submitted that respondent No.4 has played fraud by converting the road into two plots and getting the same regularised.

The facts pleaded by the petitioners and the material filed in support thereof show that the petitioners are *bona fide* purchasers for valuable consideration from respondent No.5, who was the original purchaser from respondent No.4. While this Court is not inclined to render any finding on the respective submissions of the learned Counsel for either parties on merits at this stage, it is, however, of the opinion that the impugned proceeding seriously affects the interests of the petitioners, who are entitled to a prior notice and an opportunity of being heard. As such an opportunity has not been afforded to the petitioners, I am of the opinion that it would be in the interests of justice that respondent No.2 reconsiders the whole issue by holding an enquiry after issuing notice to the petitioners.

Mr.Avinash Desai, learned Counsel for the

petitioners, submitted that as petitioner Nos.2, 3 and Mambapuram Rajasekhar have jointly purchased Plot No.418, and as the said Rajasekhar is abroad, petitioner Nos.1 and 2 will represent him also.

In this view of the matter, the impugned proceeding in Lr.LRS/1789/CR-11/WZ/GHMC/2012, dated 09.03.2015, of respondent No.1- Corporation is set aside. Respondent No.2 is directed to issue a detailed showcause notice to the petitioners. If the petitioners file their objections to the said showcause notice within the time stipulated therein, respondent No.2 shall hold a detailed enquiry, pass a speaking order and communicate the same to the petitioners. Till this exercise is completed, respondent Nos.1 to 3 shall not interfere with the possession of the petitioners over the Plots in question. It is needless to observe that if the petitioners fail to submit their objections within the stipulated time, respondent No.3 shall be free to pass appropriate speaking order without any enquiry and based on the material available on record. If the petitioners require any information relevant to the issue, respondent No.2 shall furnish the same before holding the enquiry.

Subject to the above directions, the Writ

Petition is allowed.

As a sequel, WPMP.No.51285 of 2015, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 8th December, 2015
LUR