

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.34557 of 2011

Date:12.06.2015

Between :

M/s Air Force Officers Co-Operative

Housing Society Ltd., Secunderabad,

Reptd by its Secretary Major (Retd)-M.N.Reddy

..... Petitioner

And:

M/s New Burhani Social Welfare Society,

Hyderabad, reptd by its President-Hakimuddin Javawala

and four others.

.....Respondents

Counsel for the petitioner: Sri M.A.Mujeeb

Counsel for Respondent Nos.3 & 4: AGP for Co-Operation (TG)

Counsel for Respondent Nos.1, 2 & 5: None appeared

The Court made the following:

ORDER:

This Writ Petition is filed for the following substantive reliefs:

“ to issue a Writ, Order or direction especially in the nature of Writ of *Mandamus* declaring:

(i) the Sale Deed No.2256 of 1998, dated 31.03.1998, executed by Respondent No.2 in favour of respondent No.1 as illegal, arbitrary, against public policy and natural justice and as null and void;

(ii) the inaction of the 4th respondent in passing statutory award with regard to the petitioner Society's reference No.AFOCHS/182/MPO, dated 26.08.1999, is illegal, arbitrary, against public policy and natural justice and direct them to dispose off the same without further delay;

(iii) the inaction of the 5th respondent in putting down the commercial shops and other additional constructions made by the 1st Respondent on Plot No.182 in the petitioner-Society layout in Survey No.218/1/2 situated at Malkajigiri Village and Mandal, Ranga Reddy District; and

(iv) consequently, to direct the 1st respondent to pay a sum of Rs.48, 602/- towards maintenance charges from 01.10.2007 to 30.11.2011 and further such sum along with 24% of compound interest per annum of such interest until such time of recovery of the same.”

At the hearing, Sri M.A.Mujeeb, learned counsel for the petitioner, submitted that prayer No.(iv) has become infructuous as the payments have already been received and as regards prayer No.(i), he has agreed with the view of the Court that the petitioner can only approach the competent civil Court for redressal of its grievance. With regard to prayer No.(ii), learned counsel for the petitioner has admitted that his client has not approached respondent No.4 with a proper application raising the dispute for

adjudication by Arbitration. He has, therefore, submitted that he will advise his client to do the needful for redressal of his grievance before respondent No.4. As regards prayer No.(iii), he has submitted that his client will be satisfied if respondent No.5 considers the petitioner's representations, dated 06.08.2010 and 27.10.2010 and takes appropriate action in accordance with law.

In the light of the above submissions of learned counsel for the petitioner, while holding that prayer No.(iv) has become infructuous, the petitioner is permitted to avail appropriate legal remedy before the competent civil Court in respect of prayer No. (i). As regards prayer No.(ii), the petitioner is given liberty to raise arbitration dispute before respondent No.4 in accordance with law. As regards prayer No.(iii), respondent No.5 is directed to consider the petitioner's representations, dated 06.08.2010 and 27.10.2010 and take appropriate action in accordance with law after giving notice to the persons who are likely to be affected by his action.

Subject to the above observations and direction, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.Nos.42994, 42995 and 42996 of 2011 filed by the petitioner for interim relief are disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

12th June, 2015

DR