

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.7551 OF 2012

ORDER

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This writ petition is filed for a *writ of certiorari* calling for the records pertaining to File No.16440/21/03/2011 in Permit No.1879/DC/C2/Circle-7/2011 dated 23.04.2011 issued by the 1st and 2nd respondents in favour of the 6th respondent and quash the same.

The case of the petitioner is that one Devara Mallaiah was the owner and possessor of an extent of Ac.03-18 gts covered by Sy.No.135/1, 135/2 and 135/3 in Ward No.12 of Gudimalkapur Village, Hyderabad District. He sold an extent of 4,846 sq.yards of land covered by Sy.No.135/2 under a registered sale deed dated 17.05.1962 to one Israel Samuel and he was put in possession of the said property. Thereafter Israel Samuel sold the said property under agreement of sale dated 20.07.1971 in favour of the petitioner's mother G.Arunal Devi and 4 others. Ever since the date of purchase, petitioners were in peaceful possession of the same. It is stated that Devara Mallaiah and Israel Samuel and their sons have filed declaration under Section 6(1) of the Urban Land Ceiling Act, 1976 (for short 'ULC Act') and since they had not shown the sales made to these petitioners as exempted land under their declaration, the Special Officer and Competent Authority assessed the entire land and declared them as surplus land holders and passed orders under Section 9 and 10 of the ULC Act. When writ petitions are filed against the same, they were remanded back to Special Officer and Competent authority. Subsequently, they passed order dated 29.08.2013 once again holding the original owners as surplus holders and the lands belonging to the mother of the petitioner were deleted from its computation, but failed to demarcate as per the petitioner's sale deed. Against the same, petitioners filed Appeal No.76 of 2004 and Appeal No.27 of 2004, but the same were dismissed. Thereafter, petitioners made representations to the authorities seeking re-delivery of possession which had been taken pursuant to the earlier orders which were set aside by this Court vide order dated 27.03.2000. Despite the same, the respondents have not acted upon. Aggrieved by the same, petitioner's mother along with other petitioners

filed W.P.No.17529 of 2010. Meanwhile, the respondents 1 and 2 granted impugned construction permission dated 23.04.2011 in favour of the 6th respondent in respect of house property bearing No.13-6-439/C/5 situated at Satyanarayana Nagar Colony, Gudimalkapur, Hyderabad. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the respondents 1 and 2 stating that impugned permission has been granted in favour of the 6th respondent by following due process of law basing on the registered gift settlement deed dated 16.05.2002 executed by Pandit Kamal Parshan and being satisfied by the *prima facie* title of the 6th respondent. It is also stated that while considering the application of the 6th respondent, they have not insisted for ULC clearance certificate since the site of the 6th respondent is only 100 sq.yards or 83.61 sq.meters and for the sites below 1000 sq.meters there is no need to obtain ULC clearance certificate. It is further stated that GHMC is not a party to the ULC proceedings between the petitioners and their vendors and sought for dismissal of the writ petition.

Counter affidavit is filed by the 6th respondent disputing the facts about the ownership of D.Mallaiah and others and also about the title of the petitioners. It is also stated that petitioners have not filed any sale deed in respect of the land claimed by them. It is further stated that since ULC proceedings are between the petitioners and third parties, they are not binding on the 6th respondent and sought for dismissal of the writ petition stating that this Court in W.P.No.24436 and 24441 of 2005 has already directed the parties to approach appropriate forum to settle *inter se* disputes.

In this case, admittedly, the petitioners have not filed any sale deed to show that as on today, they are the owners of the subject property and petitioners themselves stated that land belonging to them is not demarcated and since the ULC authorities have not handed over the possession to the petitioners, they were litigating the same all through out. The rights of the petitioners are yet to be crystallized. Basing on the title deed, the respondents 1 and 2 have granted building permission in favour of the 6th respondent and the same has been asserted by the 6th respondent in his counter affidavit. In

W.P.No.24436 of 2005 and batch filed by the petitioner's mother and vendors of the 6th respondent, this Court held that *inter se* disputes between the petitioners and the contesting respondents are left to be decided among themselves before the appropriate forum. It is settled law that mere grant of building permission does not confer any right on the person in whose favour, the permission has been granted. It is always open to the parties to approach appropriate forum to decide their rights. More so, these disputed questions of facts regarding title cannot be decided by this Court exercising jurisdiction under Article 226 of Constitution of India. This Court in W.P.No.12258 of 2014 held that the Municipal authorities cannot adjudicate the disputed questions of fact regarding title and only *prima facie* being satisfied about title they grant building permission.

In view of the same, I do not see any merit to entertain the writ petition. Hence, the writ petition is dismissed. However, petitioners can workout their remedies in appropriate forum. There shall be no order as to costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 15.06.2015

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