

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

**WRIT PETITION Nos.27102, 27060, 27091 and
27046 OF 2012**

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COMMON ORDER:

The case of the petitioners is that they are the owners and possessors of various plots in Survey No.171/A, 171/A3, 172 & 152, admeasuring various extents situated at Venkateswara Colony, Neredcherla Village and Mandal, Nalgonda District, having purchased the same through registered Sale Deeds and they are in enjoyment and peaceful possession of the same without any interruption from any quarter. They have made an application to the Panchayat Secretary, Neredcherla Village and Mandal on various dates by paying necessary charges and the 2nd respondent accorded permission for construction of dwelling house to the petitioners by various proceedings. As per the sanctioned plan petitioners constructed the house without any deviation. While the construction is in progress, the 1st respondent issued memo dated 20.06.2012 and 21.08.2012 to the 2nd respondent asking him to stop illegal constructions in the subject site and basing the said proceedings, the 2nd respondent issued a notice dated 22.08.2012 asking the petitioners to stop construction without assigning any reason. Aggrieved by the notice dated 22.08.2012 issued by the 2nd respondent in pursuance to the proceedings dated 20.06.2015 & 21.08.2012 issued by the 1st respondent, these writ petitions are filed.

The 1st respondent filed counter affidavit stating that one E.Venkataiah gave a complaint on 19.06.2012 stating that illegal layouts are made in Sy.Nos.171/A, 171/A3, 172 and 152/A admeasuring 13.19 guntas, situated at Gram Panchayat,

Nereducherla, and that the said layouts are made without following the Rules issued in G.O.Ms.No.67, dated 26.02.2002 i.e., the said layouts were approved without NALA permission and not taking 10% open space area to be set apart for public purposes etc. and without obtaining the permission of the District Town & Country Planning Officer, Nalgonda; and that the complainant also requested to conduct enquiry and take necessary action for removal of the said illegal layouts. The said complaint was forwarded to the 4th respondent vide Memo No.748/12-B5 (Pts.)-1, dated 20.06.2012. Accordingly the 2nd respondent has conducted enquiry on the said complaint on 18.07.2012 and submitted his report vide letter dated 27.07.2012 stating that the said layout was made during the year 1999-2000 as per the layout Rules issued in G.O.Ms.No.377, dated 12.10.1973. It is stated that as per the above said Rules the said layout proposals are not submitted to the District town & Country Planning Officer for approval. The said layout was approved on 21.02.2000 by the then Executive Officer, Gram Panchayat, Nereducherla namely M.Balaji and also construction permission for four houses and collecting House Tax also. The said Executive Officer who approved the layout was expired after his retirement. It is stated that then Executive Officer, Gram Panchayat, Nereducherla has approved the layout in Sy.No.171/A, 171/A3, 172 and 152 admeasuring 13.79 guntas situated at Venkateshwara Colony of Nereducherla Village on 21.02.2000 and also given house construction permission without sending the layout proposals to the District town & Country Planning officer, Nalgonda for approval and not taken 5% open space area to be set apart for public purposes. As such, the said layout proposals are to be prepared as per the Rules issued in G.O.ms.No.67 Panchayat Raj & Rural Development (Pts.IV) Department, dated 26.02.2002 and submit to the District

Town & Country Planning Officer duly taking open space area to be set apart for public purposes and take necessary action on construction of houses in the said layout vide the Divisional Panchayat Officer, dated 27.07.2012. After submission of report by the 4th respondent the same was examined as per the provisions of A.P.Panchayat Raj Act, 1994 and respondent Nos.2 and 4 have been directed to stop all ongoing constructions in Sy.No.171/A, 171/A3, 172 and 152 situated at Sri Venkateshwara Colony of Nereducherla Village duly issuing notice to all the ongoing construction owners and submit his report, vide Memo No.748/2012-B4 (Pts.), dated 21.08.2012 by the 1st respondent. While the matter stood thus, one Enjamuri Venkataiah made a request before the District Collector on 09.07.2012 for not taking any steps for illegal construction of the buildings in the above said survey numbers.

The 2nd respondent also filed counter affidavit reiterating the counter filed by the 1st respondent.

Heard learned counsel for the petitioners and Sri G.Narender Reddy, learned counsel for 2nd and 3rd respondents.

In this case, all the petitioners state that they have purchased the plots from the persons who have made the layouts and obtained building permission; and that they have completed constructions and they are not responsible for any deviations. The petitioners also state that no notice was issued to the petitioners before issuing the impugned proceedings. The stand of the respondents is that since the layout owners have not handed-over appropriate open spaces to the respondent authorities for public purpose and since the Panchayat Secretary has not obtained approval of District town & Country Planning Officer, Nalgonda, impugned notices have been issued.

Learned Standing Counsel for the second and third

respondents states that letters have been addressed to the layout owners in pursuance of complaint received by higher authorities and that necessary action will be initiated against the persons who have made the layouts.

In this case, this Court has granted interim orders on 31.08.2012 to the petitioners. Now it is stated that construction is also completed. This Court cannot decide this issue whether layout owners have violated the rules or not and the impugned notice dated 22.08.2012 also does not indicate that any prior notice is issued to the petitioners. The petitioners also stated that they purchased the subject plots through registered sale deeds and obtained building permission and the same is also admitted by the 2nd respondent in the counter stating that petitioners have obtained construction permission.

Since it is stated by the learned standing counsel for 2nd and 3rd respondents that that notices were already issued to the layout owners, it is for the 2nd and 3rd respondents to take appropriate action after receiving explanations from them. In pursuance of the same, the respondent authorities shall also put the petitioners on notice to enable them to file their explanation. The respondent authorities shall consider the explanations to be submitted by the petitioners and pass appropriate orders in accordance with law. Till the above exercise is completed and final orders are passed by the respondent authorities, there shall be status quo obtaining as on today.

In view of the same, writ petitions are disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

06.07.2015
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A.RAJASHEKER REDDY, J