

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.12197 of 2012

ORDER:

Heard the learned counsel for petitioners, learned Government Pleader for Assignments appearing for respondent Nos.1 to 3 and Sri Jitendra Rao Veeramalla, learned counsel for respondent Nos.4 to 17 and 19 to 38.

2. In this Writ Petition, the petitioners assail the proceedings in letter No.B/5898/2009 dt.30-01-2012 issued by 1st respondent including the names of respondent Nos.4 to 38 in the place of petitioners as beneficiaries under Indiramma Housing Scheme Phase-III, Donkal Village, Morthad Mandal, Nizamabad District for an extent Ac.7.38 guntas in Sy.Nos.511, 524, 526 and 527 of the said village.

3. It is not disputed that the above extent of land was acquired by the then Government of Andhra Pradesh with an intention to provide house sites and houses to weaker sections of the Society by introducing the Indiramma Housing Programme.

4. The petitioners contend that they belong to Backward Class and Scheduled Caste community of the said village, that they are residents of the said village, and that they do not have agricultural land or house sites. Petitioners allege that in the year 2008, a Grama Sabha was held by the Gram

Panchayat and a resolution was passed unanimously to allot house sites to petitioners and others and the same was notified vide notice

dt.09-05-2011 in letter No.B/5898/2009.

5. Petitioners allege that after notifying their names as beneficiaries through notice dt.09-05-2011, though there were no objections from anybody, at the instance of the local M.L.A., the list was altered and the petitioners' names, which had appeared in the notification dt.09-05-2011, were deleted and the names of respondent Nos.4 to 38 were included and the impugned proceedings dt.30-01-2012 were issued in letter No.B/5898/2009.

6. Petitioners contend that once Grama Sabha had approved their names and thereafter their names were also notified through letter dt.09-05-2011, it was not open to delete their names from the list of beneficiaries under the Indiramma Housing Scheme and include the names of respondent Nos.4 to 38, whose names were not approved by the Grama Sabha or Indiramma Housing Scheme Committee. They specifically allege that no notice was issued to petitioners before changing the earlier decision vided letter dt.09-05-2011 for allotment of house sites to them under the Indiramma Housing Scheme by letter dt.30-01-2012 and that the inclusion of the names of respondent Nos.4 to 38 by 1st respondent in the impugned proceedings dt.30-01-2012 is

illegal, arbitrary, unjust and violative of principles of natural justice.

7. Counter-affidavit is filed by 1st respondent admitting that Grama Sabha was conducted and a resolution for allotment of house sites to the beneficiaries under Indiramma Housing Scheme was passed, in which the names of petitioners along with others were included. It is alleged that the names of the beneficiaries were displayed on the notice board of the Gram Panchayat, Donkal village on 09-05-2011 inviting objections, that certain objections were received saying that the list of beneficiaries was prepared by taking bribes, and that the Joint Collector as well as the District Collector directed the 1st respondent to conduct an enquiry into the matter by keeping the list dt.09-05-2011 in abeyance. It is contended that an enquiry was conducted in respect of each individual beneficiary, that total 4 teams were formed with the Village Revenue Officers and they were deputed to conduct door to door enquiry in respect of the beneficiaries to know their economic and social status and the said enquiry concluded that the petitioners were ineligible for the reasons set out in para-5 of the counter-affidavit. It is stated that thereafter a fresh list was prepared after following the due procedure and the same was displayed in the notice board of the Gram Panchayat, Donkal Village. It is alleged that no objections were received to this new list.

8. Learned counsel for respondent Nos.4 to 38 (excluding respondent No.18) supported this submission and stated that subsequent to filing of the Writ Petition, certain structures were also erected by some of his clients.

9. It is not disputed that the names of petitioners were included in the initial list of beneficiaries dt.09-05-2011 after Grama Sabha passed a resolution for allotment of house sites to the beneficiaries identified by the Indiramma Housing Committee and in that list the names of petitioners along with others were included. Assuming that any objections were received against some of the petitioners of the nature mentioned in para-5 of the counter-affidavit, the petitioners could not have been disqualified on the said basis without they being issued any show cause notice to show cause why they should not be disqualified for the reasons mentioned in para-5 of the counter-affidavit. Admittedly, this has not been done and some discreet enquiry was allegedly conducted through Village Revenue Officers without the knowledge of the petitioners and behind their back, and a conclusion was drawn that the petitioners were not eligible for assignment of house sites.

10. This is in gross violation of principles of natural justice and clearly smacks of arbitrariness. This has resulted in gross injustice to petitioners, who have been deprived of a house site and they had no opportunity to establish their contention

that they are eligible persons under the said scheme.

11. Further it is not the case of respondents that in Grama Sabha a resolution was passed as regards the persons found eligible and included in the list dt.30-01-2012. It is not disputed that such a resolution in the Grama Sabha is necessary to identify the beneficiaries under the said Scheme.

12. Since constructions were allegedly made by respondent Nos.4 to 38 are subsequent to filing of the Writ Petition, the doctrine of *lis pendens* would apply and any constructions made by them would be subject to the result of the Writ Petition.

13. In this view of the matter, the proceedings dt.30-01-2012 in letter No.B/5898/2009 including the names of respondent Nos.4 to 38 in the place of petitioners is set aside; the 3rd respondent is directed to conduct fresh enquiry into the matter and issue show cause notice to petitioners mentioning the grounds on which they are found ineligible, invite explanations from petitioners and then decide the question of their eligibility. This exercise shall be completed within three (03) months from the date of receipt of a copy of this order. In the said enquiry, respondent Nos.4 to 38 shall also be put on notice and they also be allowed to participate. In case the petitioners are found to be eligible in the said enquiry, the 3rd respondent shall allot plots under the Indiramma Housing Scheme by displacing respondent Nos.4 to 38 who have

been included in the subsequent list dt.30-01-2012.

14. The Writ Petition is allowed with the above directions. No costs.

15. As a sequel, miscellaneous petitions pending if any, in this Writ Petition shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 01-06-2016

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