

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.23423 of 2010

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, calls in question the order of respondent No.1-District Panchayat Officer, Ranga Reddy District passed in proceedings No.410/2010-B I (Pts), dated 20.08.2010.

Heard Sri A.Ravinder Reddy, learned counsel for the petitioners, learned Government Pleader for Panchayat Raj and Rural Development for respondent Nos.1 to 3 and Sri P.Veera Reddy, learned Senior Counsel representing Sri K.Murali Krishna, learned counsel for respondent No.4, apart from perusing the material available before the Court.

According to the petitioners, petitioner No.1 purchased plot bearing No.650, admeasuring 200 square yards by way of a registered sale deed bearing document No.2748/2005 and petitioner No.2 purchased plot No.205, admeasuring 250 square yards by way of a registered sale deed. It is stated in the affidavit filed in support of the writ petition that the petitioners purchased the said plots from M/s.Chakradhara Estates. The said properties are situated in Survey Nos.529/EE and 529/VU of Turkapally Village, Shameerpet Mandal, Ranga Reddy District and Survey Nos.541/A, EE, VU; 542/A, EE, VU; 544; 582/AA; 639/A, EE, E, VU, VU/2; and 640/E/1,

E/2. It is further stated that originally, a layout was made in 2003 and the Gram Panchayat approved the same on 06.06.2003 and M/s.Chakradhara Estates purchased the said land and added some more land to the said layout and obtained another layout in 2006. It is also stated that on the representation made by respondent No.4, respondent No.1 cancelled the layout granted earlier.

Reiterating the averments in the affidavit filed in support of the writ petition, it is the principal contention of the learned counsel for the petitioners that respondent No.1 cancelled the layout without issuing any notice to the affected parties including the petitioners and the same is violative of principles of natural justice besides being contrary to the Layout Rules.

This Court while ordering Rule nisi on 22.09.2010, in WPMP No.29966 of 2010, granted interim suspension of the impugned order to the extent of the petitioners' plots only.

A counter-affidavit deposed by respondent No.4 is filed denying the averments in the affidavit filed in support of the writ petition and in the direction of justifying the impugned action. According to the counter-affidavit filed by respondent No.4, he is a B.Tech Graduate in Mechanical Production Engineering and at the age of 25 years, he went to United States of America and stayed there for 10 years and came back to India permanently about a year back. It is stated that his father, Sri A.Gopal Reddy, by virtue of a

registered gift settlement deed bearing document No.758/2010, dated 05.05.2010, gifted the agricultural land, admeasuring Acs.2.00 in Survey No.541/AA and VU of Turkapally Village, Shameerpet Mandal, Ranga Reddy District, which he purchased under a registered sale deed bearing document No.7134/2004, dated 05.07.2004 from Sri K.Syam Sundar. It is further stated that through another gift settlement deed bearing document No.759/2010, dated 05.05.2010, father of respondent No.4 gifted another extent of Ac.0.20 guntas in Survey No.528 of the same Village, which he purchased from Sri Y.Ramachandra Reddy under a registered sale deed bearing document No.2754/2008, dated 11.09.2008. It is also the case of respondent No.4 that his mother Smt.A.Sumitra also gifted an extent of Ac.1.00 in Survey No.527 of Turkapally Village under a registered gift settlement deed bearing document No.760/2010, dated 05.05.2010, which she purchased by way of a registered sale deed bearing document No.3494/2005, dated 09.06.2005 from one Sri M.Amrutha Reddy. It is further stated that his mother also gifted an extent of Ac.1.20 guntas in Survey No.527 under a registered gift settlement deed bearing document No.761/2010, dated 05.05.2010 and the said property was purchased from one Sri M.Amrutha Reddy by way of a registered sale deed bearing document No.2358/2005, dated 26.04.2005. It is also stated that his sister, Smt.J.Aparna, originally purchased an extent of Ac.1.00 in Survey No.542 of Turkapally Village from

Sri V.Srinivasa Rao under a registered sale deed bearing document No.7135/2004, dated 05.07.2004, and she gifted the entire extent of Ac.1.00 of land in favour of respondent No.4. It is eventually stated that in the said manner, respondent No.4 herein acquired total extent of Acs.6.00 of land situated in Turkapally Village under five registered gift settlement deeds, dated 05.05.2010, from his father, mother and sister and the said lands are situated in Survey Nos.527, 528, 541 AA and VU and 542.

It is also stated in the counter-affidavit that respondent No.4 went to the area and to his utter shock, he could not locate and identify his properties on the basis of the boundaries and description given in the schedule of properties in the gift settlement deeds as well as link sale deeds. It is further stated that to his utter surprise and shock, he found that the boundary stones were totally disturbed and layout of the plots was made on the land.

A reading of the counter-affidavit of respondent No.4 shows that the same disputes the competence of the Sarpanch in granting the layout and the counter-affidavit further states about the non-compliance of the legal requirements.

Reiterating the averments in the said counter-affidavit, it is stated by the learned Senior Counsel for respondent No.4 that the persons from whom the petitioners herein claimed to have purchased the property were given notice at the time of inspection

by the respondent-authorities and strongly supported the order impugned in the writ petition.

After thoroughly going through various aspects raised in the counter-affidavit of respondent No.4, this Court is of the opinion that the factual controversies, pointed out in the same, need not be gone into for the purpose of adjudicating the issue in the present writ petition i.e. the validity of the impugned order, dated 20.08.2010, passed by respondent No.1.

It is the specific case of the petitioners herein that without giving any notice and without affording any opportunity of being heard to the petitioners, respondent No.1 cancelled the layout, wherein their lands are situated. A perusal of the order under challenge shows that respondent No.1 cancelled the layout on the ground that no technical sanction was obtained from the competent authority i.e. Hyderabad Metropolitan Development Authority. It is a settled and well-established proposition of law that any action on the part of the authorities, which has civil consequences, must necessarily be preceded by notice and opportunity of being heard to the persons likely to be affected by such action. In the instant case, the said principle is followed in breach. As such, this Court has absolutely no scintilla of hesitation nor any traces of doubt to hold that the impugned action is in contravention of the principles of

natural justice and on this ground alone, the impugned order is liable to be set aside.

For the aforesaid reasons, the writ petition is allowed, setting aside the order *vide* proceedings No.410/2010-BI(Pts), dated 20.08.2010, passed by respondent No.1. It is made clear that respondent Nos.1 to 3 are at liberty to proceed in accordance with law after giving notice and opportunity of being heard to the petitioners herein and to all stakeholders.

Consequently, Miscellaneous Petitions, if any pending in this writ petition shall stand disposed of. No order as to costs.

Dt: 01.12.2016.
kdl



A.V.SESHA SAI, J