

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 33137 of 2012

ORDER:

It is stated by the petitioners that they have purchased the two sets of properties under two separate registered sale deeds dated 12.10.2007 from its original owners. The land of the petitioners is situated in 35th ward of Bhimavaram Municipal Limits, West Godavari District. To the West of their land, there is a vacant land belonging to respondents 7 to 12 who requested the petitioners to allow them to pass through their site for their ingress and egress and to leave some site towards the road. The petitioners donated to the fourth respondent by Registered Settlement Deed dated 19.09.2009 a portion of their site, wherein the first respondent formed a 33' wide road on southern and northern sides of the petitioners' site from East to West. Thereafter respondents 7 to 12 have applied for regularization of layout in respect of their site and the same was approved and sanctioned by respondents 3 to 5 vide L.P.No.3/2009, dated 27.07.2009. On obtaining a copy of the layout plan, the petitioners came to know that respondents 3 to 5 have shown a 60' wide road from South to North passing through their aforesaid property. It is the case of petitioners that without issuing prior notice to them, their land was included in the layout sanctioned to Respondents 7 to 12. In those circumstances, the petitioners have submitted a representation on 08.03.2010 to respondents 2 to 4

and when the respondents did not give any reply, they filed Writ Petition No. 7298 of 2010 questioning the action of respondents 3 to 5 in including their land admeasuring Ac.0.78 cents and Ac.1.13 cents in the layout L.P.No.3 of 2009 sanctioned in favour of Respondents 7 to 12. A counter affidavit is filed to the said Writ Petition stating that the 60 feet road shown in the lay-out as going through the land of the petitioners in part of the master plan road of Bhimavaram Town Master Plan approved vide G.O.Ms.No. 951, M.A., dated 27.11.1987 and the same was shown in the layout regularized vide LP.No.3 of 2009. Though the petitioners sought for a copy of the master plan of Bhimavaram Town from the office of Respondents 3 to 5, but they were informed that copy of master plan was unavailable in their respective offices. However the petitioners procured a copy of the master plan of Bhimavaram town in the office of first respondent. The petitioners state that they got surveyed their land and that of respondents by the Town Surveyor and had drawn the proposed 60 feet road of the master plan after alignment. The said road is substantially passing through the approved layout of respondents 7 to 12 and the alignment of 60 feet road was clearly altered to suit the requirements of respondents 7 to 12. However, the petitioners withdrew the said Writ Petition with liberty to file a comprehensive Writ Petition. The present Writ Petition is also filed for the very same relief stating that earlier Writ Petition was withdrawn with liberty to file a comprehensive Writ Petition. Though copies of sale deeds along with Google map were filed, however, a copy of the

master plan alleged to have been obtained from the office first respondent is not filed, except filing a copy of G.O.Ms.No.951, MA, dated 27.11.1987 published in AP.Gazettee on 15.09.1988.

A counter affidavit is filed on behalf of respondents 1 to 3 stating that as per Rule 10(d) of G.O.Ms.No. 902, MA, dated 31.12.2007, where an unapproved layout site is affected in the statutory Master Plan Road net works, the competent authority shall retain the alignment in the said layout. It is stated that the official respondents are not obligated under the rules to issue prior notice to neighbours while regularizing the layout. The third respondent is not the competent authority to alter the Master Plan Road and it is the Government under the rules competent to modify the Master Plan duly following the procedure prescribed under the rules. Since there is existence of Master Plan Road near to LP.No.3/2009, while regularizing the said Layout Plan, the third respondent has only marked the extension/continuation of the existing Master Plan Road as per Master Plan published vide G.O.Ms.No. 951, dated 27.11.1987.

Respondents 4 and 6 filed a separate counter affidavit stating that the layout was regularized under LRS-2007 vide LRSLP No.3 of 2009 dated 27.7.2009 which was approved by the Regional Deputy Director of Town and Country Planning, Rajahmundry vide proceedings dated 27.7.2009 in respect of land in R.S.No. 60/3 and 60/4 to respondents 4 to 9 and the same was released by respondent-Municipality. The Regional Deputy Director of Town and Country Planning has inspected the site and

approved the same. Issuing of notices to the neighbours for sanction of layout is not necessary. A reply has been given to the petitioners' representation dated 8.3.2010 on 8.4.2010. As and when the municipality lays 60 feet road in the petitioners' site, notices would be issued to them (petitioners) and appropriate steps would be taken in accordance with law. When the petitioners have applied for Master Plan copy under RTI Act on 8.5.2012, the respondent authorities informed petitioners to pay an amount of Rs.1200/- towards the cost of the plan copy vide endorsement dated 19.10.2012. It is further stated that the site regularized in L.P.No.3/2009 is a residential area and the site was divided into 25 plots, out of which, certain plots were disposed of by providing 40 feet internal roads.

8th respondent filed a separate counter affidavit on his behalf as well as on behalf of Respondents 7 and 9 to 12 stating that they have purchased different extents of land in R.S.,Nos. 60/3 and 60/4 and wanted to develop the said land, for which, they prepared a layout and submitted for approval. While approving the layout by the competent authority, it was reflected therein a 60 feet road in the said layout, which is a mandatory requirement, however the said 60 feet master plan road was not formed till today. In respect of the total extent of Ac. 2.17 cents, though initially layout was not approved, when the Government has introduced regularization scheme for regularizing the unauthorized layout, respondents 7 to 12 have submitted an application seeking regularization and accordingly orders were passed on 4.8.2009.

It is clear from the above that respondents 7 to 12 purchased an extent of Ac.2.17 cents and divided the said land into plots even before the orders approving the layout were passed. However when the Government introduced the scheme for regularization of unauthorized layouts, they submitted their application to the third respondent and after conducting an enquiry, the Deputy Director of Town and Country Planning approved the layout vide proceedings in LP.No.3/2009 on 27.07.2009 and appropriate proceedings were issued by the Municipality on 4.8.2009. No road is laid in the land of the petitioners as alleged by them. The petitioners are unable to establish before this Court as to how their land is affected by approval of the layout in favour of respondents 7 to 12. In the circumstances, this Court finds no ground for grant of relief sought for by the petitioners.

The Writ Petition is accordingly dismissed. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 16TH November, 2016.
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