

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.26045 OF 2015

DATED:25-01-2016

Between:

Vutti Vishnuvardhana Rao
and others ... Petitioners

And

State of Andhra Pradesh
Rep. by its Principal Secretary to Government
Municipal Administration &
Urban Development Department
Secretariat
Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONERS: Mr. P. Rajkumar

COUNSEL FOR RESPONDENT NO.1: G.P. for Municipal
Administration (AP)

COUNSEL FOR RESPONDENT NO.2: Mr. P. Jagadish Chandra
Prasad

COUNSEL FOR RESPONDENT NO.3: Mr. Venkateswarulu
Nimmagadda

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to set aside proceedings in Rc. No.1630/2013/L8, dt.26.06.2013, of respondent No.2.

The petitioners claim to be the absolute owners of the land admeasuring 602 Sq. yards of land covered by T.S. No.1048/1, correlated to old Sy. No.19A, Ward No.8, Santhapeta South Ward, Vizianagaram. That in the place of the old buildings existing over the plot, the petitioners sought to construct a commercial complex. However, they pleaded that subsequently, the plans were changed for construction of a residential complex with Stilt + Ground + 3 Upper Floors. That accordingly, the petitioners applied for permission to respondent No.3. Respondent No.3 in turn in his proceedings in Roc No.1416/2012/G2, dt.01.06.2012 forwarded the petitioners' application along with the plans and necessary documents, such as change of land use, Topo detailed plan, no objection certificate from the surrounding neighbours, to respondent No.2, for approval.

That respondent No.2, vide his proceedings in Rc. No.1630/2013/ L8, dt.26.6.2013, returned the petitioners' application on the ground that the site is earmarked as 'Green belt' and hence it requires conversion of land use from Green belt to Residential use which has to be approved by the Government. On receipt of this communication, the petitioners applied to respondent No.2 under the Right to Information Act, 2005, on 18.06.2014 seeking to furnish the information as to under what proceedings the site purchased by the petitioners was treated as Green belt. That accordingly, respondent

No.2 has furnished the information vide RTI No.5860/2014/L8, dt.16.07.2014, wherein it is informed that the Visakhapatnam Metropolitan Region Plans and Zonal Development Plans have been approved by the Government, vide G.O. Ms. No.345, Municipal Administration and Urban Development Department, dt.30.06.2006, in which the site in T.S. No.1048/p of Vizianagaram is covered under Green belt, as per the sanctioned Zonal Development Plan.

The petitioners have filed G.O. Ms. No.345, dt.30.06.2006, and the learned counsel for the petitioners submitted that nowhere in the G.O., or in its Annexures T.S. No.1048/p finds a reference and that therefore the stand of respondent No.2 that the petitioners' land is covered by Green belt is not supported by any material whatsoever, much less by G.O. Ms. No.345, dt.30.06.2006, as claimed in Memo dt.16.07.2014, issued under the Right to Information Act.

Though the writ petition is pending from 05.09.2014, no counter affidavit is filed.

At the hearing, Mr. Jagadish Chandra Prasad, learned Standing Counsel for respondent No.2, has submitted that he has not received any material from respondent No.2 supporting the reason mentioned in the impugned proceedings, namely; that the land in T.S. No.1048/p, of Santhapeta South Ward, Vizianagaram, is included in Green belt. He has further submitted that while G.O. Ms. No.345, dt.30.06.2006, does not show that the land is covered by Green belt, the officials of respondent No.2 are not able to produce Visakhapatnam Metropolitan Region Plans and Zonal Development Plans, referred in the information furnished under the Right to Information Act, dt.16.07.2014.

Admittedly, no material is placed before this Court to support the conclusion drawn by respondent No.2 that the land in T.S. No.1048/p is covered by Green belt. The petitioners have filed a few photographs purportedly showing the site, the authenticity of which is not disputed by the respondents. From these photographs, it is clearly evident that the vacant site is situated between two buildings of which one is a

multistoried building consisting of Stilt + Four Floors, which fact also strengthens the plea of the petitioners that their plot is not located in Green belt. In my opinion, in the absence of any material whatsoever to show that the petitioners' land in T.S. No.1048/p is covered by Green belt, rejection of the building plans forwarded by respondent No.3, by respondent No.2, cannot be sustained in law.

Accordingly, the writ petition is allowed with a direction to respondent No.2 to reconsider the petitioners' application treating the site for which they applied for building permission, in T.S. No.1048/p, of Santhapeta South Ward, Vizianagaram, as not falling under Green belt. It shall take a decision afresh within one month of resubmitting the application by the petitioners and communicate the same to the petitioners.

The writ petition is allowed to the extent indicated above.

As a sequel to disposal of the writ petition, W.P.M.P. No.32554 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

25-01-2016

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