

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.16285 of 2012

ORDER:

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This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking the following relief/s:-

“....to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of respondents in contemplating to dismantle duly formed layout known as Ragala's Royal Village on the land of Ac. 22.37 Gts in Survey Numbers 357, 359 and 360 of Guduru Village, Bibinagar Mandal, Nalgonda District and also proceedings initiated in EOPRRD/46/MPPB/2010, dt. 21.05.2010 issued by 2nd respondent, as illegal, irregular, irrational, violative of principles of natural justice, provisions of Andhra Pradesh Panchayatraj Act, 1994 and rules framed thereunder and offends Articles 14, 21 and 300-A of Constitution of India and consequently direct the respondents not to dismantle the said layout and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

(Reproduced Verbatim)

2. I have heard the submissions of the learned counsel for the writ petitioners and the learned standing counsel appearing for the respondents 2 and 3. I have perused the material record.

3. The case of the writ petitioner, as set out in the writ petition and as per the submissions made at the hearing, in brief, is this:-

“When the respondents 1 to 3 having contemplated to demolish the duly formed layout viz., Ragala's Royal Village on the land of Acs.22.37 guntas in Survey numbers 357, 359 and 360 of Guduru Village of Bibinagar Mandal of Nalgonda District had initiated action by issuing proceedings no.EOPRRD/46/MPPB/2010 dated 21.05.2010, the writ petitioners had filed this writ petition feeling aggrieved of the said intended action and proceedings. The land of Acs.8.02 guntas in survey numbers 359 and 360 of Guduru Village of Bibinagar Mandal of Nalgonda District was acquired by Paragon Technical Solutions Private Limited, Hyderabad by way of purchase under registered sale deed bearing document number 2856/2003. The said company had also acquired Acs.5.00 guntas in survey number 357 by registered sale deed bearing document number 5031/2003

and also Acs.9.35 guntas in survey number 359 by registered sale deed bearing document number 2857/2005. Thus, the total extent of land acquired by the said company is Acs.22.37 guntas. The first petitioner, along with the land owner, had applied to the third respondent Gram Panchayat and got the layout approved on 20.09.2005 and had developed the land and laid the land into plots as per the terms of G.O.Ms.No.67, PR&RD (PTS.IV), dated 26.02.2002. The entire lay out was in accordance with the Rules. 40 feet width roads and 33 feet width roads were formed in the layout. 10% of the land was left open as required under the Rules. The first petitioner, along with the land owner, had executed sale deeds in favour of the purchasers of plots including the second petitioner. The second petitioner has purchased plot number 154 admeasuring 260 square yards under registered sale deed dated 11.01.2012. While so, by the proceedings dated 21.05.2010, the second respondent directed the petitioner to rectify the defects pointed out in the said proceeding within thirty days from the date of the receipt of the said proceeding. In the said proceedings, it was also sated that on failure to rectify the said defects, further action would be initiated as per the Rules. In response thereto, the first petitioner had sent reply dated 28.05.2012 stating that there was due compliance of the Rules while developing the layout and that the first petitioner is prepared to register 10% of the land in the name of the Gram Panchayat as required under the Rules. However, the second respondent, without passing any orders, made an inspection of the property; and, the staff of the office of the second respondent came to the spot along with excavators and workmen for demolishing the laid out plots and roads. When the first petitioner had objected for such an action, the second respondent and his staff had left the spot by fixing a deadline of one week for reporting compliance by the pettiioners. The said action of the second respondent is beyond his powers, authority and jurisdiction and not legal. In the said circumstances the writ petitioners are obliged to file this writ petition.”

The learned counsel for the writ petitioners, while making submissions in-line with the pleaded case, had further submitted that pursuant to the interim orders of this Court, all the plots in the layout have

been sold by the 1st petitioner to the third parties and that as per G.O.Ms.No.151 Municipal Administration & Urban Development (M1) Department, dated 02.11.2015 issued by the Government of Telangana, it is the responsibility of the individual purchasers of the plots to have the property regularised by the competent authority and that the local authority is responsible for enforcing the approved layout pattern and hence, the writ petition may be disposed of directing the purchasers of the plots in the said layout to seek regularisation in strict accordance with the procedure established by law and as per the terms contained in the aforementioned Government Order.

The learned standing counsel for respondents 2 and 3, while making submissions in-line with the counter affidavit of the third respondent, would further submit as follows: 'The Gram Panchayat is not competent to approve the layout. Therefore, the approval of the layout by the said authority, which is not competent, does not arise for consideration. The District Collector had issued proceedings dated 03.05.2010 to identify the illegal layouts. As the subject layout is not an approved layout, proceedings were initiated calling upon the writ petitioners to rectify the defects in the layout. But, the petitioners had failed to rectify the defects that were pointed out. As such and as the layout is an illegal layout, the third respondent Gram Panchayat had initiated action for removal of the stones. The third respondent Gram Panchayat has taken the assistance of the higher officials to initiate action against the writ petitioners. Thus, action was initiated in strict accordance with the procedure established by law. There is no possibility for the regularisation of the layout even at the request of the purchasers, in view of the fact that the layout is not in accordance with the requirement of law and the Rules made there under and as the defects were not rectified. The writ petition is devoid of merit and is liable to be dismissed.

In reply, the learned counsel for the writ petitioners would submit that in case the requests of the purchases of the plots in the subject layout for regularisation cannot be considered and the layout cannot be regularized

as per law and Rules governing the same, such purchasers of the plots can be given an opportunity to proceed against the writ petitioners and others concerned in a manner which the law permits and that the writ petition may be disposed of recording the submissions.

Recording the aforementioned submissions of the learned counsel for the parties, this writ petition is disposed of leaving it open to the purchasers of the plots from the writ petitioners to apply for regularisation as per the terms of G.O.Ms.No.151 Municipal Administration & Urban Development (M1) Department dated 02.11.2015 issued by the Government of Telangana, subject to the observation that in case any request/s for regularisation is/are received, the same shall be considered and disposed of by the respondents 1 to 3 in strict accordance with the procedure established by law and in terms of the aforementioned Government Order. It is made clear that in case the regularisation that may be sought for by the purchasers of the plots is impermissible under facts and law and if regularization is not practicable and cannot be done, such purchasers of the plots shall be at liberty to proceed against the writ petitioners and seek against them any appropriate remedies, which the law permits. No costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

M.Seetharama Murti, J

04th January, 2016
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