

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 37515 OF 2012

ORDER:

This writ petition is filed under Article 226 of the Constitution of India for the following relief:

“... Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents restraining the plot purchasers from entering to their plots in layout plan No.1/2009 of Tekrial Vilalge, Kamareddy Mandal, Nizamabad District, as illegal and arbitrary and consequently direct the respondents herein not to interfere with the plots in layout plan No.1/2009 of Tekrial village, Kamareddy Mandal, Nizamabad District without following due process of law.”

Heard Sri Ravi Shankar, learned counsel for the petitioners, learned Government Pleader for respondent No.1, Sri G. Narender Reddy, learned Standing counsel for respondent No.2 and perused the material available before the Court.

In the affidavit filed in support of the writ petition it is stated that with an intention to carry on real estate business, the petitioners purchased Ac.9.34 guntas of land in Sy.Nos.6/2, 18/2, 19, 22, 23, 24, 25/2, 26 and 32/1 of Tekrial village, Kamareddy Mandal, Nizamabad District by way of four registered sale deeds and after purchasing the said land, they approached the Revenue Divisional Officer, Kamareddy, Nizamabad District, for conversion of the nature of land from agriculture to non-agriculture purpose and the Revenue Divisional Officer vide proceedings No.A/971/2009, dated 17.06.2009, accorded permission for conversion as sought. It is further stated that after the said conversion, the petitioners approached the Gram Panchayat and submitted a plan for its approval by paying necessary fee and the Gram Panchayat vide its resolution, dated 01.01.2010, accorded permission for conversion of the said land into plots by sanctioning the layout plan as L.P.No.1/2009. It is also stated that all the plots were sold to different purchasers under registered sale deeds and the purchasers

are put in possession of the plots. Alleging interference of the 2nd respondent, this writ petition came to be instituted.

This Court, while ordering notice on 06.12.2012, directed that the boundary stones laid in the land shall not be removed in the interregnum by respondent Nos.1 and 2 while directing the matter to be listed after two weeks. Thereafter, on 20.12.2012, the said order was extended for six more weeks.

A counter affidavit deposited by the Panchayat Secretary of the respondent Gram Panchayat is filed stating that the petitioners obtained conversion certificate only for Ac.3.00 guntas, but not for the rest of the land admeasuring Ac.6.34 guntas and that on verification of the Gram Panchayat records, they found that no application was made by the petitioners and no payments were received by the Gram Panchayat from them for any purpose. It is further stated that the alleged resolution, dated 01.01.2010, said to have been passed by the Gram Panchayat is not in existence in the minutes book and that the Gram Panchayat has no power to grant layout approval and it is only the DTCP which is the competent authority to approve the layout. It is also stated that the petitioners might have obtained the signatures from the then Sarpanch and there is no record in the Gram Panchayat so also no resolution number in the records and that on a complaint lodged by the villagers, the District Panchayat Officer, Nizamabad District, vide letter, dated 17.10.2012, directed the Divisional Panchayat Officer to enquire into the matter and accordingly, the Divisional Panchayat Officer vide notice, dated 02.11.2012, directed the Panchayat Secretary to attend the enquiry on 06.11.2012 along with Gram Panchayat records. In pursuance to the said direction, enquiry was conducted and as per the Gram Panchayat records there is no layout approval from the competent authority. Therefore, the Divisional Panchayat Officer directed the Panchayat Secretary to remove the stones erected in the said land and accordingly,

on 06.11.2012, stones were removed with the help of the Gram Panchayat staff and now it is an open land.

Learned counsel for the petitioners submits that the impugned action of interference by the respondents is patent violation of principles of natural justice and violative of Articles 14 and 300A of the Constitution of India.

On the contrary, learned Standing counsel for the respondent Gram Panchayat and the learned Government Pleader for Panchayat Raj submit that in view of the categorical averments in the counter affidavit as to the non-existence of the layout and the permissions said to be accorded by the Gram Panchayat, petitioners cannot maintain the present writ petition.

It is clear from a reading of the writ affidavit that even according to the petitioners, all the plots were sold to different purchasers under registered sale deeds and that the purchasers are put in possession of the plots. In the considered opinion of this Court, since the petitioners are not the owners of the property, even according to them, they cannot maintain the present writ petition in the absence of any right in their favour in the subject property.

Having regard to the submissions made by the learned Government Pleader and the learned Standing counsel and keeping in view the above aspects, this Court is of the opinion that the present writ petition is completely devoid of any merit and the same is accordingly dismissed.

Miscellaneous petitions, if any, shall also stand dismissed. No costs.

A.V. SETHA SAI, J

Date: 01.12.2016
ES