

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

W.P.No.24006 of 2008

ORDER:

Heard the learned counsel for the petitioner, Sri P.Jagadish Chandra Prasad, learned counsel for 2nd respondent and Sri K.Narsi Reddy, learned counsel for 4th respondent.

2. In this Writ Petition, the petitioner is challenging the action of 2nd respondent in approving layout in favour of 4th respondent vide proceedings Rc.No.11942/07/L2 dt.07-02-2008 and seeks a direction to 2nd respondent to reconsider the approval of the layout granted to 4th respondent.

3. The 4th respondent had made an application for sanction of layout to 2nd respondent in respect of Ac.20.25 cts in Sy. No.22P, 23P and 27P of Boddavalasa village, Denkada Mandal, Vizianagaram District. Layout was sanctioned by the impugned proceedings to 4th respondent.

4. It is the contention of the petitioner that a portion of the land for which layout has been sanctioned to 4th respondent belongs to him, that it includes of public *rasta* and also land belonging to the Government.

According to him, the Boddavalasa Gram Panchayat had objected to the grant of layout to 4th respondent on 28-11-2007 and without even calling for remarks of Gram Panchayat, layout has been sanctioned.

5. The 2nd respondent filed a counter stating that it is a statutory body created by the AP Urban Areas (Development) Act, 1975 and it is only the competent authority to approve private layout in accordance with the statutory Master Plan/Zonal Development plans along with existing G.Os. and Rules and Regulations in force. According to 2nd respondent, Gram Panchayat can only forward the layout applications to it and after approval of the layout by 2nd respondent, the Gram Panchayat would be issued with specific instructions to ensure taking over of open spaces and area covered by roads in the above layouts in accordance with rules in force. It is stated by 2nd respondent that the application of 4th respondent for sanction of layout was examined by it in all respects under the relevant rules and approval was accorded on 07-02-2008. It denied that any representation was given on 28-11-2007 to it objecting to the sanction of layout. It is further stated that the petitioner had not submitted any title deeds in respect of his claim to the land in Sy. No.23/1 to 2nd respondent and therefore the same could not be verified. It is further stated that Sy. No.23/2 in

which the petitioner alleges that there is a public *rasta* of Ac.0.17 cts does not form part of approved layout of 4th respondent and therefore there is no question of any hardship to the villagers.

6. The 3rd respondent filed a counter contending that it had received a complaint from the 4th respondent that the petitioner and the Panchayat Secretary of the Boddavalasa Gram Panchayat have demanded bribe from the very inception of the layout proposals by 4th respondent and since the said demanded bribe was not paid, they bore grudge and have made false statement against it. He also stated that compound wall was constructed by 4th respondent against the wishes of 2nd respondent. But only 2nd respondent can take action for removal of the said wall.

7. The 4th respondent denied the contentions of the petitioner that an extent of Ac.0.17 cts in Sy. No.23/2 belongs to the Government and that it is a public *rasta*. He also stated that the petitioner who is said to be Sarpanch of the Boddavalasa Gram Panchayat cannot question layout permission orders since only the 2nd respondent is an exclusive jurisdiction to issue approved layout.

8. Reply affidavits have been filed by the petitioner disputing the stand taken by the respondents.

9. In the reply affidavits filed by the petitioner to the counters filed by 4th respondent, the petitioner admitted that he had filed O.S.No.78 of 2008 before the Senior Civil Judge, Vizianagaram against 4th respondent and also O.S.No.639 of 2007 before the Junior Civil Judge, Vizianagaram disputing the title of 4th respondent to the land in respect of which layout approval was sought by 4th respondent. He also relied upon Pattedar passbook and title deeds issued by the revenue authorities to him.

10. Learned counsel for the respective parties reiterated stands of their respective clients.

11. From the facts narrated above, it is clear that the petitioner is objecting to the title to some of the lands in respect of which 4th respondent had applied for a layout to 2nd respondent. The petitioner has already approached the Civil Court by filing two suits. The layout permission granted by the 2nd respondent to 4th respondent specifically states that permission of developing the land will not be proof of title to the land (clause 5 of the impugned proceedings). Since issues of title to the land, which require oral and documentary evidence, cannot be decided in writ jurisdiction, I am not inclined to entertain the Writ Petition.

12. Granting liberty to the petitioner to agitate his right, title or interest in the land, in respect of which layout approval has been granted to 4th respondent by 2nd respondent, in the civil suits already filed by the petitioner, this Writ Petition is dismissed. It is made clear that this Court has not expressed any opinion on the claims of either the petitioner or the 4th respondent in respect of the subject land. Any development which 4th respondent undertakes pursuant to the layout sanctioned in its favour by 2nd respondent under the impugned order will be subject to the result of the Civil Suits filed by the petitioner against 4th respondent. No costs.

13. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 29-02-2016

kvr