

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.1170 of 2012

ORDER:

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

“....to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus:

- i) Declaring the action of the respondents in preparing proposed revised layout of original layout bearing No.10472/MP/HUDA/80 dated 10.06.1983 of Kukatpally III Phase and following the same converting the lung spaces between the blocks in order to sell off the recreational and other areas to third parties as being illegal, arbitrary and without jurisdiction and violative of Articles 14 and 15 and 300-A of the Constitution of India and pass such other order(s) as this Hon'ble Court deems fit and proper in the circumstances of the case;**
- ii) Costs be awarded to the petitioner;**
- iii) 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 2nd respondent-GHMC. I have perused the material record.

3. The admitted facts of the case are as follows:-

After the erstwhile HUDA (present 'HMDA') had approved a lay out vide permit no.10472/MP/HUDA/80 dated 10.06.1983 and recognised it as KPHB Phase III covering the land in an extent of Acs.49.43 guntas, houses were constructed by the first respondent-Andhra Pradesh Housing Board in the said layout for the benefit of the low and middle income groups and the plots were sold to various purchasers including the petitioners herein on payment of sale consideration. In the year 1997, the Housing Board has handed over the roads and open spaces meant for parks and play grounds with appurtenant lands in between the plots of both Phases III and IV to the

Commissioner, Kukatpally Municipality, which is now merged with GHMC. The said open spaces etcetera, which were handed over are 28 in number. As per the lay out rules, the said open spaces and roads vest in the 2nd respondent corporation.

4. While things stood thus, the writ petitioners filed this writ petition *inter alia* stating that they are aggrieved on account of a proposal to revise the layout and convert the lung spaces between the plots into commercial plots for sale to third parties. Further, the petitioners submit that the said lung spaces, which are now being proposed to be converted into commercial plots, are intended for the common benefit of the residents of various plots in that Phase and that, therefore, the proposed action of the respondents is illegal and arbitrary.

5. On the other hand, the case of the 2nd respondent-GHMC is that the petitioners and others are trying to encroach upon the open spaces and that therefore, the 2nd respondent had decided to protect the open spaces by raising compound walls around such open spaces and that in that direction, compound walls were already constructed around eleven open spaces till now and that the GHMC is intending to proceed with the construction of the compound walls around the remaining open spaces also in order to prevent encroachments and to maintain greenery in such enclosed open spaces and that the compound walls were already constructed around some open spaces and that compound walls are being proposed to be constructed around the remaining open spaces also, only for the above said purposes but not for the conversion of the open spaces for any commercial use or for sale as alleged in this writ petition. To the counter affidavit of the 2nd respondent, two plans showing the open spaces and the roads are enclosed. The learned Standing Counsel appearing for the 2nd respondent-GHMC had also brought to the notice of the Court two photographs to show the contrast between the open spaces enclosed by compound walls, which are being maintained well by the GHMC, and the other open spaces around which no compound walls are yet constructed and which are being put to misuse and are full with waste

material due to littering by the residents of that locality. He would, therefore, contend that it would be beneficial for the residents of the locality, if the GHMC is permitted to construct the compound walls around the remaining open spaces and also to maintain all the open spaces in a hygienic manner by landscaping and growing greenery.

6. In reply, the learned counsel for the writ petitioners would submit that as per the Land Development and Layout Regulations applicable to the present property, the open spaces shall only be developed with greenery and that such open spaces must be landscaped and protected with compound walls of a low height of 2 feet by providing ornamental grills up to a height of 3 to 4 feet, but no compound walls exceeding the said prescribed height shall be constructed contrary to the norms and regulations.

7. I have given earnest and thoughtful consideration to the facts and the submissions.

8. On the analysis of the facts and the submissions, this Court is of the well considered view that the 2nd respondent-GHMC had constructed compound walls around open spaces and is further proceeding with the construction of the compound walls around the remaining open spaces meant for parks and play grounds etcetera, as per the norms and regulations, so as to protect them and to prevent encroachments of the same and to maintain greenery in such enclosed spaces/parks etcetera for the benefit of the residents of the plots in Phases III and IV and that the said course of action undertaken by the GHMC, which is in accordance with law and which is more beneficial to the writ petitioners, cannot be faulted in the facts and circumstances of the case. Viewed thus, this Court finds that the apprehensions of the writ petitioners are not well founded and the writ petition is misconceived and is liable to be dismissed.

9. Accordingly, the writ petition is dismissed giving liberty to the 2nd respondent-GHMC to proceed with its aforementioned intended action in strict accordance with the procedure established by law. However, it is made

clear that the already enclosed open spaces, play grounds and parks and similar such spaces around which the GHMC is now intending to build the compound walls as per norms and regulations, shall be maintained as such, i.e., as open spaces/parks/play grounds with greenery without putting the same to any other commercial use. There shall be no order as to costs.

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

08th February, 2016
Bvv

M.Seetharama Murthi, J