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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.19446 of 2013

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ORDER:

The petitioners claim to be residing in their respective houses bearing Municipal door numbers mentioned in para 2 of the writ affidavit. The petitioners allege that they are poor and live in below poverty line and after conducting due enquiry and after ascertaining the social status of the petitioners, small portions of house plots were allotted to them as early as in the year 1996 and they have constructed houses, obtained electricity connection and their houses are assessed for municipal tax. While so, the respondent authorities are taking steps to forcibly dispossess them. In the writ petition, the petitioners sought for declaration for the action of the respondent authorities in threatening to demolish the houses of the petitioners without following the due process is illegal and unconstitutional.

2. On behalf of respondents 1 to 3, counter affidavit is filed deposed by Sri Kola Vijaya Ratnam, working as Executive Engineer, R&B Department, Bhimavaram, West Godavari District. The deponent do not dispute the factum of allotment of the plots to the petitioners. It is averred that on account of the increase in the population of Bhimavaram Town and increase in traffic, there is an urgent need to widen the road starting from the

heart of Bhimavaram Town connecting National Highway, State Highway, Bhimavaram By-pass road and several MDR roads and Z.P. Roads. It is stated that before taking legal course, efforts are being made to persuade the occupiers of the properties to agree for provision of alternative site. In the said manner, several persons have agreed and they have vacated the premises and they are also allotted alternative sites. In para 6 of the counter affidavit, it is specifically averred that “since all the petitioners are the below poverty line, efforts were made to issue alternative house site pattas, though the Government land was not available land acquired, with the co-operation of the donors and all the procedure will be followed as per the law.” In para 2 of the counter affidavit, it is averred that wherever the person is available, he will be provided alternative site and even in case if the original allottee dies, his legal heirs may be provided the same benefits. In the said manner, it is stated, that after the death of 10th petitioner, his son’s name was included for issuing alternative site. It is further averred that the petitioner Nos.1, 3, 4 and 5 have expired and nobody is residing in those houses.

3. Having regard to the categorical assertion of the respondents that only after providing alternative site, they would take steps to dispossess the petitioners and that such accommodation would also be provided to the legal heir of the original allottee, the cause in the writ petition does not survive. However, it is needless to observe that if the respondents require the properties occupied by all the original allottees or their legal heirs, they shall be displaced only after following due process and considering their claim to provide suitable alternative plot, if they are similarly situated to persons who were provided alternative plots.

4. The Writ Petition is, accordingly, closed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 22nd April, 2016

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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