

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 32612 OF 2012

ORDER:

This present Writ Petition was filed challenging the action of respondent Nos. 2 and 3 in not considering the application of the petitioner for granting permission for construction of a residential house in plot Nos. 12A, 12B and 13A, in spite of approval of the layout plan on 27-07-1991 in survey Nos. 287 and 290 of M.R. Palle Gram Panchayat, at the instance of respondent Nos. 4 and 5.

2. The petitioner states that the petitioner and another jointly purchased house plot bearing Nos. 12A, 12B and 13A from its owner by registered sale deed dated 28-04-2011 for valid consideration. After purchasing the same, they applied for permission to construct a residential building of stilt + 4 floors. They also applied to the 2nd respondent on 21-01-2012 duly complying with the requisite formalities. They were stated by the 3rd respondent that permission cannot be granted as the 2nd respondent issued instructions on 23-07-1992 and it relates to deviation made by the original owner who developed the land and changed it into house plots. It appears that the 2nd respondent issued an endorsement on 23-07-1992 and it has shown that a joint inspection of the site was conducted by the concerned Town Planning Officer, the 2nd respondent along with its surveyor and staff of the Gram Panchayat on 21-07-1992. It was noticed that sub-division has not been effected in the revenue records and in the absence of the same, it is difficult to demarcate the boundaries. Hence, the parties were requested to approach the Mandal Revenue Officer to incorporate the sub-division in the revenue records. Till such action was taken, the Executive Officer, M.R. Palle Gram Panchayat, was directed not to grant any building permission for plot Nos. 12, 13, 14 and 21. Thereafter, a permission was granted in respect of plot No. 14 but the issue is held up in view of the objections raised by respondent Nos. 4 and 5. The main objection relates to

reduction of the size of the plots by encroachment on the roadside by the land owners of plot Nos. 12A, 12B and 13A.

3. The 2nd respondent filed a counter affidavit stating that no application was submitted to the 2nd respondent but, however, it was admitted that the layout submitted by one B.Nadha Muni Reddy for the land of an extent of Ac. 2.61 cents in survey Nos. 287 and 290 of Muthyalareddypalli Village was approved on 27-07-1991. It was revised keeping in view the size of the plots without affecting the area of the layout by proceedings dated 18-10-2002. Respondent Nos. 4 and 5 issued a notice through their counsel on 27-01-1992 and on receipt of the same, a show-cause notice was issued to the owner of the land and there was no response. When an inspection was conducted on 21-07-1992, none of the parties were present. In those circumstances only, an order was passed on 23-07-1992 directing respondent Nos. 4 and 5 to approach the concerned Mandal Revenue Officer to get the land surveyed and the Executive Officer of the Gram Panchayat was directed not to issue any building permission. It is ultimately stated that the 2nd respondent has no objection to consider the building permission for plot Nos. 12A, 12B and 13A once the dispute between the petitioner and respondent Nos. 4 and 5 is resolved. The Gram Panchayat has to grant the building permission as per the power conferred under G.O.Ms.No. 302 M.A. dated 15-04-2008.

4. Respondent No. 3 filed a counter affidavit stating that it has got power to grant building permission to the residential houses up to G + 2 floors only. In case of stilt + 4 floors, permission has to be obtained from the 2nd respondent.

5. Respondent Nos. 4 and 5 filed a separate counter affidavit alleging that the 2nd respondent without verification of the record granted approval of the layout on 18-10-2002. The said approval was obtained by playing fraud on the 2nd respondent. In those circumstances, they got issued a legal notice to cancel the layout.

6. It is clear from the above averments that the petitioner applied for grant of building permission for G + 4 floors and the 3rd respondent is not competent to grant such permission. The petitioner did not apply to the 2nd respondent as per the averment made in the counter affidavit filed by the 2nd respondent. In those circumstances, the Writ Petition is disposed of giving liberty to the petitioner to approach the 2nd respondent by applying for building permission after complying with the due formalities as per law and as and when such an application is filed, the 2nd respondent shall consider and dispose of the same in accordance with law.

7. The Writ Petition is, accordingly, disposed of. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed in consequence. No order as to costs.

Date: 02nd November, 2016.
JSK

A.RAMALINGESWARA RAO, J.

