

THE HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.4784 of 2008

ORDER:

This Writ Petition is filed by two petitioners to declare the action of the respondents in not earmarking the boundaries and handing over plots in Sy.No.658 of the petitioners admeasuring 260.42 square yards each, pursuant to registration, as illegal and to direct the respondents to earmark and handover the plots of petitioners in Sy.No.658 at Proddatur, Cuddapah District.

2. The brief facts of the case according to the petitioners are as follows:

Notification was issued by the respondents for conducting auction of certain plots. Petitioners became successful bidders and paid the entire amount and got their plots registered on 18.7.2006. The respondents have not earmarked the respective plots by showing their boundaries to the extent of their lands. About 1 ½ years have elapsed and in spite of repeated reminders and representations, the respondents have not taken any action to get the plots earmarked.

3. A counter-affidavit is filed on behalf of the respondents stating that auction was conducted on 08-6-2005 and as the petitioners are successful bidders, auction was confirmed in their favour and sale deeds dated:3.8.2006 and 2.8.2006 were also executed in their favour. Physical possession was also given to them. The plan

attached to the sale deed clearly mentioned the boundaries and measurements of the said plots. All the eight HIG plots are situated in one row and were clearly marked with marker stones.

4. It is further stated by the respondents that apprehending some trouble from the Office bearers of the allottees Association by name Andhra Pradesh Housing Board Colony Development and Welfare Association, Proddatur, the present Writ Petition is filed. When notification was issued proposing to conduct auction of plots, the said Association had filed Writ Petition No.521 of 2005 by way of Public Interest Litigation wrongly claiming that the said plots form part of the land earmarked for open space in the approved layout. A Division Bench of the High Court granted interim order dated:20.1.2005 stating that, none of the areas which is shown in the layout plan, as open spaces shall be put to auction. As the area of the said eight HIG plots is not shown as open spaces in the layout plan, the respondents sought to proceed with the auction as scheduled. Subsequently, the said Writ Petition was dismissed on 15-3-2005 by the Division Bench of the High Court after the respondents filed their counter-affidavit stating that the original layout plan L.P.No.340/1981 relied on by the allottees Association was no longer in force as it was revised by layout Plan No.16/1995 which was again revised by layout plan No.1/2000. It was also stated that the entire colony was constructed as per the layout Plan No.1/2000 and that as per the said layout Plan, the area comprising

eight HIG plots are earmarked for HIG plots only and not earmarked for open space and that the said layout Plan 1/2000 has been made strictly in accordance with the layout Rules. It is further stated that 10% of the total area has been left out for open space as required by Rule 10(1) of the A.P. Municipalities (Layout) Rules, 1970.

5. It is further stated by the respondents that after the auction, the allottees Association filed another Writ Petition i.e., Writ Petition No.12217 /2005 challenging the revision of the layout L.P. No.340/1981 by L.P. No.16/1995 and again L.P. No.1/2000 and a consequential direction was sought to set aside the auction conducted on 8.6.2005. At this stage, the petitioners along with other successful bidders filed Writ Petition No.3986 of 2006 and the said Writ Petition was disposed of on 2.3.2006 directing the respondents therein to take appropriate decision for confirming the auction. Accordingly, auction was confirmed in favour of the petitioners and other successful bidders and sale deeds were executed. However, the petitioners and other purchasers of these plots have not made any construction and did not take any steps to protect them, by constructing compound wall. Taking advantage of the same, the allottees Association have been using this land as play ground along with the adjacent open area and also installed some idols in these plots. Under the guise of this Writ Petition, petitioners are seeking to get the idols removed and take control of the land from the allottees Association.

6. Heard the learned Counsel for the petitioners and the respondents.

7. During the course of hearing, learned Counsel for the respondents placed on record the order passed in W.P. No.12217/2005 filed by Andhra Pradesh Housing Board Colony Development and Welfare Association, Proddatur which was filed challenging the action of the respondents in revising layout plan No.340/1981 by layout plan L.P. No.16/1995 and layout plan No.1/2000 and for a consequential direction to set aside the auction conducted by respondents 1 and 2 on 08.6.2005. The said Writ Petition was disposed of on 03-4-2014 with an observation that the auction conducted on 08-06-2005 in respect of open plots by respondents 1 and 2 cannot be held to be illegal and dismissed the said Writ Petition.

8. Learned Counsel for the respondents submits that apprehending that the Andhra Pradesh Housing Board Colony Development and Welfare Association, Proddatur, will obstruct the petitioners from constructing the compound wall, the present Writ Petition has been filed and in view of the fact that the Writ Petition No.12217/2005 has been dismissed on 03.4.2014, the petitioners will not have any obstruction for constructing of the compound wall.

9. Learned Counsel for the respondents further submits that when the sale deeds were executed with a plan showing the size of the plots along with boundaries, it is for the petitioners to construct the compound wall in accordance with the said plan. He further submits that when the sale deeds were executed on 18.7.2006, without constructing compound wall Writ Petition was filed in the year 2008. When sale deeds were executed in the year 2006 itself and possession of plots has been delivered, it is for the petitioners to protect their lands by constructing the compound wall thereon.

10. In view of the facts and circumstances stated in the preceding paras and in view of the fact that sale deeds were executed in the year 2006 and possession of plots have been delivered immediately, it is for the petitioners to protect the same. Hence, there are no merits in the Writ Petition and the same is accordingly dismissed.

K. VIJAYA LAKSHMI, J.

Dt.15-11-2017
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THE HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI



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DATED:15-11-2017

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