

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 8657 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue an order or orders or direction or Writ more particularly in the nature of Mandamus declaring the action of the respondents herein in including the land of the petitioner in Sy.No. 7,8,9 admeasuring to an extent of Ac. 18-16 gts., situated at Guttala Begumpet Village, Serilingampally Mandal, Ranga Reddy District, as FTL lands (full tank level/water bodies in H.M.D.A. Master Plan without issue of any notice to the petitioner as illegal, arbitrary, violative of the Articles 14, 16, 21 and 300-A of Constitution of India, violative of the Section 32 of the Hyderabad Metropolitan Development Act, 2008 in accordance with the Provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, consequently direct the respondents to delete the land in Sy.Nos. 7,8,9 admeasuring to an extent of Ac. 18-16 gts., situated at Guttala Begumpet Village, Serilingampally Mandal, Ranga Reddy District as FTL lands (full tank level/water bodies in HMDA Master Plan and to remove the erected sign boards as FTL Land on the petitioner land and pass such other order or orders as this Hon'ble Court may deem fit in the interest of justice.”

2. Petitioner herein is the Welfare Association stated to be formed for the welfare of its members. It is stated in the affidavit filed in support of the Writ Petition that members of the petitioner's Association are owners and possessors of their respective plots forming part of the

approved layout sanctioned by the respondent authorities in S.Nos. 2 to 9 of Guttala Begumpet Village, Serilingampally Mandal, Ranga Reddy District, under different registered Sale Deeds by paying the sale consideration amount, and they are in peaceful possession and enjoyment of the said property. It is further stated in the writ affidavit that originally the name of Lt.Col.Cox was recorded, as pattadar, in Sy.Nos. 1 to 9, Guttala Begumpet Village, as per Khasra Pahani for the year 1954-55, and in the year 1962-63, Lt.Col.Cox sold an extent of Ac. 93-11 Gts in S.Nos. 1 to 9 to one Sri B. Ramalingeswara Rao, under registered sale deed dated. 8.5.1963, after duly obtaining permission under Sections 47 and 48 of Hyderabad Tenancy and Agricultural Lands Act, 1950 (for short "the Act"), vide proceedings No. A3/1992/62 dated 19.3.1963 of the Tahsildar, Hyderabad, West Taluq. It is further stated that the name of Sri B. Ramalingeswara Rao was mutated as pattadar and possessor in the Revenue Records and the said B. Ramalingeshwara Rao also filed a declaration under Section 6(1) of the Urban Land Ceiling Regulation Act, 1976 in respect of the said lands. It is further averred in the writ affidavit that the said B. Ramalingeshwara Rao gifted an extent of Ac. 90.00 in Sy.Nos. 2 part, and 3 to 9 in favour of Hyderabad Archdiocese Society, Hyderabad, in 1970, and executed a Gift Deed on 5.10.1973, which was subsequently validated by MRO, Serilingampally, under Section 5-A of

ROR Act, vide Proceedings No. C/752/92 dated 10.09.1993. It is also stated in the affidavit filed in support of the Writ Petition that the Hyderabad Archdiocese Society had transferred the land in favour of S/Sri B. Damodar, Ch. Mallesh, M. Rajesham, S. Satish Redy, M. Komaraiah, M/s Balamrai Cooperative Housing Society Limited and M/s Addagutta Cooperative Housing Society Limited, through different Sale Deeds, which were subsequently validated under the provisions of A.P. Land Records and Pattadar Pass Book Act, 1971. It is further stated that in turn they have developed the property into a layout by obtaining tentative layout permission dated 13.12.1996, from Hyderabad Urban Development Authority (for short "HUDA"), and metal roads, curb stones were laid and trees were also planted. The individual plots were sold through different Sale Deeds and in turn the plot owners formed into an Association by name and style M/s Pallavi Enclave Owners Welfare Association. It is further stated that the vendor has obtained the 'Land Use Certificate' on 6.9.1989 from the HUDA, which clearly shows that the usage of the land in S.Nos. 2 to 9 of Guttala Begumpet Village, Serilingampally Mandal, Ranga Reddy District is earmarked for 'residential and partly affected by 80 feet wide road' as per the Zonal Development Plan. It is further stated in the writ affidavit that after due enquiry in the year 1997, the HUDA has communicated a letter No.

6934/MP1/HUDA/95, dated. 3.1.1997, directing the land owners to pay the Development Charges and processing fee to a tune of Rs. 2,47,813/- for changing the usage of land from Water Bound to Residential and that thereupon, on the proposals made by the HUDA, the then Government issued G.O.Ms.No. 680 M.A.M.A.U.D, dated 1.12.1999, by changing the usage of land admeasuring Ac. 2.00 Gts, in Sy.No. 8 of Guttala Begumpet Village from Water Body to Residential Zone. It is further stated that the Village map of Guttala Begumpet also does not reveal about the existence of any water body in S.Nos. 7,8 and 9 of Guttala Begumpet Village. It is the case of the petitioner's Association herein, that though there was no existence of water body in S.No. 8, to avoid future complications, the vendors had paid an amount Rs. 2,47,813/- for change of usage of land admeasuring Ac. 2.00 Gts, in S.No. 8 of Guttala Begumpet Village and to that effect, the then Government of Andhra Pradesh issued a G.O.Ms.No. 680, dated 1.12.1999 by changing the usage of land from "Water Body to Residential Use Zone." It is further stated that the petitioner's Association was surprised to note that respondent authorities have erected a sign Board in August, 2015 stating that Sy.Nos. 7,8, 9 & 32 are under the FTL Medi Kunta Cheruvu, and that in fact, the said Medi Kunta Cheruvu is situated somewhere at Nanakramguda Village but not in Sy.Nos. 7, 8 & 9 of Guttala Begumpet Village.

According to the members of the petitioner's Association, they made representations on 4.8.2015 and 7.8.2015, to the District Collector and others, and in pursuance of the representations, the Deputy Secretary to Government, Irrigation & CAD (WRG-GRC) Department, Government of Telangana, has sent a Memo No. 8602/WRG-GRC/2015/1, dated 24.8.2015, to the Superintending Engineer, Lakes & Water Bodies Circle, I&CAD Department, Secunderabad, to take necessary action. According to the petitioner, no action has been taken by the authorities concerned. It is also stated that subsequently, the petitioner's Association made representations dated. 16.9.2015 and 14.11.2015 to the third respondent for removal of sign boards erected on the land in S.Nos. 7, 8 & 9 of Guttala Begumpet Village, Serilingampally Mandal, R.R. District. It is also stated that subsequently, the sign boards were removed, and once again, recently, in the second week of October, 2016, once again the sign boards were erected in the petitioner's land in Sy.Nos. 7, 8, 9 and 32, under FTL, Medi Kunta Cheruvu. Hence, they made another representation dated 19.10.2016 to the second respondent and the same is still pending consideration.

3. In the above background, challenging the alleged action of the respondents in interfering with the peaceful possession and enjoyment of

the subject property of the members of the petitioner's Association, without issuing any notice, the present Writ Petition is filed.

4. During the course of hearing, it is submitted by the learned Government Pleader that it is the duty of the Government to protect the water bodies from encroachments. The learned Government Pleader placed on record the judgment of the Division Bench of this Court in W.P.No. 24260 of 2008 and batch dated 11.7.2016.

5. Sri Y. Rama Rao, learned Standing Counsel for HMDA, appearing for 4th respondent, submits that the State Government vide G.O.Ms.No. 157, Municipal Administration and Urban Development (I) Department dated 6.4.2010, constituted a Committee called "Lake Protection Committee for Preservation and Protection Lakes in Hyderabad Metropolitan Development Authority". According to the learned Standing Counsel, the petitioner's Association herein can approach the said Committee for redressal of their grievance. In this contest, paragraph 8 of the said G.O, which is relevant, is extracted hereunder:

"8. The following are the functions of the Lake Protection Committee:

- i) Listing of all lakes along with their FTL in HMDA area.
- ii) Wide publicity and awareness campaign for protection of the lakes.
- iii) To prepare action plan for delisting of the lakes and inflow channels and such other measures required for maintenance or cleaning of the inflow channels in to the lakes and issue instructions/guidelines to the concerned agencies for implementation of action plan.

- iv) Removal of existing encroachments in the FTL and foreshore areas.
- v) To clearly demarcate the lakes up to FTL by raising bunds along FTL and arranging for watch and ward for preventing future encroachments and misuse of the lake environment.
- vi) To workout and suggest modalities for regulation and rehabilitation of existing activities/structures in the catchment area of Osmansagar and Himayatsagar lakes.
- vii) To do such other things as may be incidental or conducive to the efficient administration for protection and improvement of the lakes and their catchments.”

6. It is the submission of the learned Standing Counsel that if the members of the petitioner's Association come up with their objections, the Lake Protection Committee will consider the same and take appropriate further action in the matter.

7. As observed from the pleadings, it is one of the main contentions of the petitioner that without issuing any notice, the respondents herein are meddling with the subject property.

8. Having heard the learned counsel appearing for petitioner, learned Government Pleader for Irrigation appearing for respondent Nos. 1 & 3, Government Pleader for Municipal Administration appearing for respondent No. 1, Government Pleader for Revenue appearing for respondent Nos. 5 to 7 and Sri Y. Rama Rao, learned Standing Counsel appearing for respondent No.4, this Court is of the considered opinion

that ends of justice would be served, if the members of the petitioner's Association are asked to file their individual representations/objections before the concerned authority under G.O.Ms.No. 157 dated 6.4.2010 for consideration of the same.

9. For the aforesaid reasons, this Writ Petition is disposed of, keeping it open to the members of the petitioner's Association to make their individual representations/objections to the concerned authority under G.O.Ms.No. 157 dated 6.4.2010, within a period of one week from the date of receipt of a copy of this order. If any such representations/objections are filed within the time stipulated, the authorities concerned under G.O.Ms.No. 157 dated 6.4.2010 shall hear the representations/objections on 7.4.2017 and thereafter pass appropriate orders. Till such orders are passed, *status quo* existing as on today shall be maintained. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions pending consideration, if any, in this case shall stand closed. No order as to costs.

JUSTICE A.V. SESA SAI

DATE: 20.03.2017

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Note: Communicate copy in four days.