

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.26016 OF 2007

ORDER:

The present Writ Petition, under Article 226 of the Constitution of India, came to be filed, to issue a Writ of *Mandamus* declaring the action of the Respondents 1 and 2 in not allotting the area abutting H.No.6/ HIG-I, Phase-IV, APHB Colony, Abbas Nagar Colony, Kurnool, in favour of the petitioner, after fixing the market value and in not considering the repeated requests made by him, as arbitrary, discriminately and illegal and consequently declare the action of the 1st respondent in seeking to allot the said area in favour of the third parties as illegal and improper.

2. Facts in issue are that pursuant to an application submitted by the petitioner and others, the 1st respondent drew lots and allotted HIG-I with lot No.17 at APHB Colony, Phase IV, Abbas Nagar, Kurnool in favour of the petitioner. The cost of the house was tentatively fixed at Rs.5,00,000/-. He paid the entire amount and the 1st respondent allotted the said house to the petitioner. Abutting the said plot of the petitioner, there is an extra land admeasuring nearly 150 square yards in an uneven shape. As the said land is not useful to any other purpose and on the contrary it is useful to the petitioner, he approached the 1st respondent requesting him to allot the said excess land in his favour by fixing the market value, as per the instructions issued by the Housing Board in its Circular

No.03085/J6/2003. Their inaction lead to filing of the present writ petition.

3. A counter affidavit came to be filed by the respondent stating that the petitioner is seeking allotment of the subject land without conducting public auction. Apart from that, it is stated that as per G.O.Ms.No.38, Housing (H.B.II) Department, dated 30.05.1997, if the land is less than 100 square yards, A.P. Housing Board can sell the same, but if it is more than 100 square yards, the same has to be disposed of by way of public auction. Since the said piece of land is admeasuring 150 square yards, the same was put to public auction on 15.11.2007 pursuant to the notification dated 27.10.2007, in which the petitioner has also participated and remained unsuccessful. However, as the 3rd respondent, who was the successful bidder, failed to comply with the condition of the auction, the auction was cancelled and the EMD of Rs.10,000./- deposited by him was forfeited to the Board. Therefore, the said plot has to be put to auction afresh.

4. Insofar as the said land is concerned, the same has access from two roads and is in a rectangular shape having dimensions of length of 60'-0" on one side and 62'-0" on the other side and breadth of 30'-0" on one side and 15'-0" on the other side. Therefore, it is urged that the allegation of the land being in uneven shape and not useful to any other purpose is incorrect.

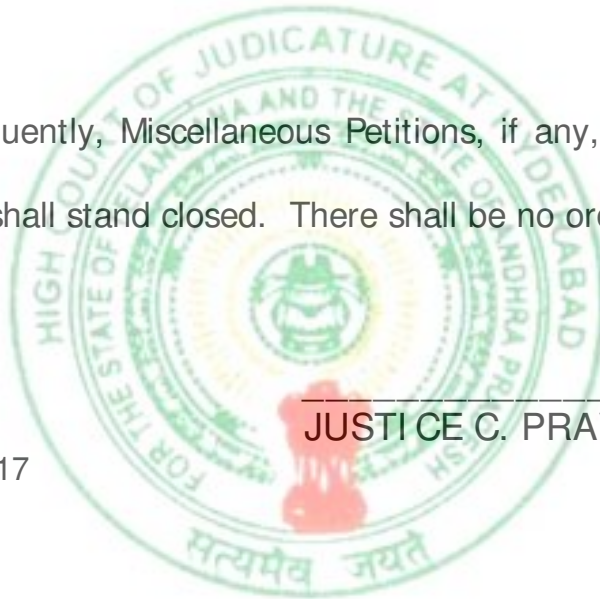
5. Heard the learned counsel for the petitioner and the learned counsel for respondents 1 and 2.

6. Having regard to the G.O., referred to above and taking into consideration the earlier directions of this Court to conduct auction, where the size of the plot is more than 100 square yards, the relief sought for by the petitioner cannot be granted.

7. Accordingly, the Writ Petition is dismissed giving liberty to the petitioner to participate in the auction, if any conducted by the respondents.

Consequently, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

Date:30.08.2017
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JUSTICE C. PRAVEEN KUMAR