

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.11440 of 2006

ORDER:

It is noticed from the file that the Writ Petition was dismissed for default against respondent Nos.8 and 10 way back on 23.06.2011 and no steps were taken for serving notices on the said respondents. Learned Counsel for the petitioners was absent on 13.06.2017 and today also when the case is called there is no representation. This Writ Petition is liable to be dismissed on the ground of non-prosecution. But, this Court wanted to dispose of the Writ Petition on merits.

This Writ Petition was filed challenging the action of the first respondent in selling open land admeasuring 400 square yards situated between Block No.13/HIG-2 and Block No.2/HIG (Ward No.1, Block-8) at Bagh Lingampally, Hyderabad, and consequently to set aside the sale certificate bearing No.3117 of 1994 and 3118 of 1994 issued pursuant to the proceedings 12275/J7/1994, dated 20.10.1994.

The first petitioner claims that he is a permanent resident of Bagh Lingampally, Hyderabad, and owns a residential flat there. He purchased the same from the first respondent. The 400 square yards of land which was sold under the above sale certificates was an open space in the original layout and it was not a stray piece available for sale. It is his further case that the sale took place clandestinely at a lesser market value. The

persons who occupied the land were not at all the owners of the neighbouring flats.

A counter affidavit is filed by respondent Nos.1 and 2 stating that the first respondent acquired an extent of Acs.50.28 guntas 46 square yards situated at Bagh Lingampally, Hyderabad, under the provisions of the Land Acquisition Act and an award was passed on 30.01.1975. After acquisition of the land, the Board prepared the layout and obtained permission from the competent authority. As per the said layout, 60% of the land was earmarked for construction and the remaining 40% was earmarked for public purpose. The land earmarked for public purpose was already handed over to the Municipal Corporation of Hyderabad on 07.08.1984 and the Municipal Corporation of Hyderabad developed parks in the open lands. When an allegation was made by one Saya Reddy and two others in W.P.No.10405 of 1996 that the first respondent was selling open lands reserved for public purpose, the said Writ Petition was dismissed on 12.06.1996 by this Court. Against the said order, the petitioners preferred an appeal in W.A.No.639 of 1996 and the said appeal was also dismissed on 12.07.1996. The Government in G.O.Ms.No.20 Housing, dated 11.06.1984 delegated the powers to the Housing Board for sale of stray pieces of land not exceeding 100 square yards to the adjacent allottees and also to regularize the encroachments made on Housing Board land subject to collection of present market value and encroachment fee with a

further condition that the Housing Board should obtain no objection from the Municipal Corporation of Hyderabad and Hyderabad Urban Development Authority before sale or regularization. The Board authorized the Vice Chairman on 07.09.1987 to sell and regularize the encroachments in pursuance of the said Government Order. The Municipal Corporation of Hyderabad vide its letter dated 17.12.1984 gave a general no objection to Andhra Pradesh Housing Board to sell the land maintaining 20' wide space for road purpose. Similarly the Hyderabad Urban Development Authority vide their letter dated 06.09.1984 also gave general no objection for sale. In view of the same, the first respondent is competent to dispose of the land without conducting public auction. There was a land of 794 square yards adjacent to Block No.13 and out of the said area, an extent of 98 square yards was encroached by the fifth respondent and 90.95 square yards by the sixth respondent. They submitted a representation on 15.09.1994 and 12.09.1994 respectively for the sale of the encroached land in their occupation. The first respondent fixed cost of the land at Rs.1,392/- per square yard as against the basic value of the land at Rs.1,200/- per square yard and similarly in respect of the land occupied by the sixth respondent the cost of the land was fixed at Rs.1,356/- and the amount was collected from the said respondents. Earlier, one Sri K.Diwakar Reddy filed W.P.No.15275 of 1996 challenging the present sales and after filing the counter affidavit, the said Writ Petition was dismissed

as withdrawn on 31.12.2004 for the reasons best known to the petitioner. The petitioners herein filed the present Writ Petition after twelve years of the sale. The land sold was neither set apart for open space nor situated in a recreation zone. The Writ Petition was filed in order to settle the scores with the respondents.

The seventh respondent filed a separate counter affidavit stating that the first petitioner sold his flat in Bagh Lingampally in July 2014 and he is not residing there. The second petitioner is residing in Banjara Hills. Similarly, the third petitioner is also not residing in Bagh Lingampally and is residing with her daughter elsewhere. The fourth petitioner sold the flat in the year 2008 and is not residing in Bagh Lingampally. The fifth respondent intended to alienate the land in favour of the seventh respondent and accordingly, the seventh respondent purchased the property. The sale in favour of respondent Nos.5 and 6 was also justified as the pieces of land are less than 100 square yards.

It is clear from the above averments that constructions were made by the first respondent in respect of 60% of the area acquired under award dated 30.01.1975 and 40% of the area was left for public purpose and it was already handed over to the Municipal Corporation of Hyderabad on 07.08.1984. The Government issued G.O.Ms.No.20 Housing, dated 11.06.1984, authorizing the first respondent to sell stray pieces of land not

exceeding 100 square yards to the adjacent allottees and also to regularize the encroachments subject to collection of present market value and encroachment fee. The Municipal Corporation of Hyderabad as well as the Hyderabad Urban Development Authority gave their no objection. In those circumstances, after taking approval from the Board of the first respondent on 07.09.1987, the Vice Chairman of the Housing Board passed orders agreeing to sell and regularize the encroachments. Accordingly, the lands in the occupation of respondent Nos.5 and 6 were regularized by collecting the appropriate market value. Respondent Nos.5 and 6 might have subsequently sold the land in favour of other persons. The present Writ Petition is filed after twelve years of such sale. In those circumstances, this Court sees no ground to interfere with such sale and the Writ Petition is liable to be dismissed.

The Writ Petition is, accordingly, dismissed. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

20.06.2017
vs