

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

W.P. No. 21798 of 2017

ORDER:

This writ petition is filed seeking issuance of writ of mandamus to declare the Notification No.01/ Vacant House/ Plot/ Auction/ EM/ EE-KNL/ 17, dated 02.06.2017 issued by the 3rd Respondent for conducting open auction in S.No.6 (Plot No.20, rear side of LIG 66 to 72) and S.No.7 (Plot No.24 adjacent to LIG-II 4 to 7) at Hindupur town, Anantapur district as illegal, arbitrary and unconstitutional, and for a consequential direction to allot the same to the petitioners by considering their representation dated 21.06.2017 in terms of G.O.Ms.No.6, Housing (HB.II) Department, dated 29.03.2011.

2. Heard the learned counsel appearing for both the parties and considered the material on record.

3. The learned Standing Counsel appearing for A.P. Housing Board opposes the writ petition contending that the extent of land which is put to auction is having a different access road and as the extent is more than 100 sq. yards, the petitioners are not entitled for any relief.

4. The dispute is, whether the land, which is behind the plots of the petitioners, can be divided, by the petitioners, on their own and claim the benefit under G.O.Ms.No.6, dated 29.03.2011, and whether the same can be allotted to the petitioners.

5. As seen from the record, an open plot, admeasuring 422.22 sq. yards, is lying on the rear side of the Plot Nos. LIG.66 to 72; and another open plot, admeasuring 530.83 sq. yards, is lying adjacent to the Houses in LIG-II 4 to 7. According to the petitioners, if the said open land, lying adjacent to their houses is divided, it would be less than 100 sq. yards each, and in view of G.O.Ms.No.6, dated 29.03.2011, they are entitled to claim the benefit of the said G.O. Even accepting the argument of the petitioners, if the open plot, admeasuring 530.83 sq. yards lying adjacent to LIG-II 4 to 7, is divided among the Petitioner Nos. 5 to 7, each one will get more than 100 sq. yards. Therefore, the provisions of G.O.Ms.No.6, dated 29.03.2011 cannot be made applicable to the petitioners. Therefore, the request of the Petitioner Nos. 5 to 7, who are residents of House Nos.4, 5 and 6, LIG.II, APHB Colony, Hindupur town, Ananthapur is rejected.

6. Insofar as the Petitioner Nos. 1 to 4 are concerned, their grievance is that they made a representation dated 21.06.2017 seeking allotment of the land, adjacent to their houses and the same is not considered by the authorities till date. The Standing Counsel for Housing Board submits that the petitioners are not entitled to any land, as it is one piece land having independent access road, and is not divisible into plots. It is argued that since the said plot is having different access, the Housing Board has every right to put it for sale by way of public auction.

7. It is to be seen here that since the Petitioner Nos.1 to 4 are in occupation of House Nos.66 to 69, they made a representation

for the allotment of the open plot, admeasuring 422.22 sq. yards lying on the rear side of LIG.66 to 72, and the same is still pending consideration since last ten days.

8. Having regard to the above, the auction of the open land, admeasuring 422.22 sq. yards, lying adjacent to the Plot No.20, and on the rear side of LIG.66 to 72, is to be deferred till the representation made by the Petitioner Nos. 1 to 4 is considered. However, it is made clear that if the representation of the Petitioner Nos.1 to 4 is not considered so far, the same shall be considered and dealt-with in accordance with law within a period of three days, and a copy of the said order shall be furnished to the Petitioner Nos. 1 to 4. In case, if any orders are already passed on the representation made by the Petitioner Nos. 1 to 4 herein, a copy of the same shall be communicated to them, and the authorities can proceed with the auction as per schedule.

9. The writ petition is accordingly disposed of. As a sequel, the miscellaneous petitions, if any pending, shall stand closed accordingly.

C. PRAVEEN KUMAR, J

Dt. 04..07..2017

*Note: Issue C.C. today itself.
(bo) Kv*

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