

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.5590 OF 2016

Date: 23.10.2017

Between:

B.Hamthulla Muslim Minotory & Weaker Section
Development Society, Regd.No.33/2010, rep.by its
President S.K.Abdul Khadar s/o. Farid Saheb,
Aged about 48 years, R/o Porumamilla, Kadapa
District.

.....Petitioner

and

The State of Andhra Pradesh, rep.by its Principal
Secretary, Department of Revenue (Assignment IV)
A.O.Secretariat Buildings, Hyderabad and others.

.....Respondents



The Court made the following:

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ORDER:

Sk.Abdul Khadar claims to be the President of B.Hamthulla Muslim Minority & Weaker Sections Development Society argued in person on behalf of petitioner-society and on behalf of respondents, learned Assistant Government Pleader made his submissions.

2. According to party in person, petitioner-society was registered with an object of upliftment and development of Muslim minorities and weaker sections and to espouse common grievances of the members of the society. According to him, society was registered in the year 2010 and ever since has been working hard for upliftment of members of petitioner society. Society comprises of 439 members, who belong to Scheduled Caste, Scheduled Tribe, Backward Classes and Muslim minorities. As they are homeless, they have occupied the land to an extent of Ac.22.90 in Rangasamudram village, Porumamilla Mandal comprising of Sy.Nos.1008/2A1, A3, A4; 1008/2B2, B4; 1008/2C3, C4, C5; 1009/A1, A2, A3; 1262 and 1263 and living in small houses/hutments constructed by them. Since they are homeless poor and living in small houses/hutments constructed by them in occupation of Government land, they requested the Government for assignment of this land to the petitioner society, so that members can construct pucca houses and eke out their living. As various representations submitted by them did not yield any result, they were compelled to file this writ petition. Petitioner society filed additional affidavit, deposed by Sk.Abdul Khadar.

According to the averments in this affidavit, totally 560 members are in possession of land to an extent of Ac.22.90 cents.

3. According to party in person, this extent of land is in their occupation and the same should be allotted to them and not allotting the same to them, amounts to arbitrary exercise of power and authority. Along with the writ petition, petitioner society enclosed Exhibit P3 - list of persons, whom petitioner society claims as their members.

4. The Tahsildar (4th respondent) filed counter-affidavit. According to the averments in the counter-affidavit, extent of land claimed by the petitioner society is not available; large extent of land belonging to the Government in various survey numbers was put to use for various purposes including construction of civil supplies godown for stocking and transportation of essential commodities under Public Distribution System; allotment of land for Telugu Ganga Project Canal; and assignment of house site pattas. According to the averments, in Sy.No.1263 the total extent of Government land available was Ac.54.25 cents. In the said survey number, layout consisting of 813 house site plots was prepared and 315 ex-servicemen/serving personnel were granted house site pattas. After such assignment, there are around 50 vacant plots available in the said layout pertaining to the beneficiaries, who have been allotted house sites, but have not constructed their houses. According to the averments in the counter-affidavit, Ac.4.00 cents of land is available. However, said land may be required for construction of various Government buildings as Municipal Headquarters is just 2 KMs away from the

said land. Sum and substance of stand of respondents is that the land sought by petitioner society is not available for assignment as such extent of vacant land is not available. The contention of petitioner society that land claimed by petitioner society is in occupation of the members and huge extent of land is available in survey numbers mentioned in the prayer in the writ petition and, therefore, should be assigned, is categorically denied in their counter-affidavit, which stand is not controverted by the petitioner society.

5. It is not known how 560 members of the society are claiming to be in occupation of land. No material is filed to substantiate the claim of possession and occupation. In view of the categorical stand of respondents that Ac.22.90 cents of land, as claimed by petitioner society, is not available, no direction as sought for by the petitioner society can be granted. Moreover, the assignment of house sites or constructed houses to the weaker sections of the society depends on policy of the Government, availability of land and identification of beneficiaries for such assignment/allotment. Thus, in matters of this nature, land cannot be given to the society authorizing such society to allot house sites to its members without verifying the credentials and authenticity of the claims. In view of the scarcity of land and the financial resources of State, State Government policy of providing house site pattas or allotment of constructed houses can be to the poorest of people, who are in need of some kind of shelter to live. Thus, from among the larger claims for such assignment, having regard to the availability of land and resources to the State, State has to identify the beneficiaries and take steps accordingly. Thus, a general

direction for allotment of land, more particularly huge extent of land in one block to the petitioner society cannot be granted.

6. However, at the same time, if members of the petitioner society also deserve such priority to be given regarding provision of house sites or allotment of constructed houses, their claims are also required to be considered.

7. Thus, while rejecting the prayer sought in the writ petition, writ petition is disposed of, granting liberty to the individual members of the society to apply to the competent authority for provision of house site pattas or allotment of constructed houses in accordance with the scheme that may have been formulated by the State and as and when such applications are filed by the individuals, the competent authority shall consider the same objectively and to the extent possible accommodate the valid claims made by the individuals. The Revenue Divisional Officer, Rajampet Division, is also directed to verify physically whether any or all the members of the society have constructed dwelling houses and living therein in the survey numbers mentioned in the writ petition and if such persons are in occupation by constructing houses or putting up hutments, they may not be disturbed till appropriate alternative accommodation is provided subject of course to their entitlement and fitment into the scheme of provision of house sites/constructed houses to the weaker sections of society. If any encroachment is found and person who is found to be in encroachment of Government land, but is not eligible for assignment of house site patta or constructed house, appropriate steps may be taken to evict them in accordance with law.

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

JUSTICE P.NAVEEN RAO

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