

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.17934 OF 2012

ORDER:

The case of the petitioners is that they purchased small extent of land from the respondents 7 and 8 through registered sale deeds admeasuring 150 square yards each. The said layout is developed by respondents 7 and 8 in Sy.Nos 192/1A and 172/1B covering an extent of Ac.3-25 cents in the Grampanchayat limits of Valivarthipadu Grampanchayat and the petitioners also informed the respondent No.7 that approved lay out was approved by resolution dated 30-07-2010 by respondent No.3. That said lands were converted from agriculture to non-agricultural lands by respondent No.3 in proceedings No.D.Dis/J/371/2010, dated 29-04-2010 in respect of land admeasuring Ac.3-25 cents in Sy.Nos 192/A and 172/B and also paid land conversion fee. The petitioners came to know that respondent No.2 issued orders to remove the stone and disturb the unauthorized layouts. Pursuant to said directions, respondent No.6 informed the petitioners that a notice has been issued to the respondents 7 and 8 that land developed by them is not approved layout and also the land is not converted from agricultural to non-agricultural land and similar notices were also issued earlier to the respondents 7 and 8 and no replies were given by respondent No.6 and informed the

petitioners that layout would be disturbed and the stones fixed would be removed from the layout. It is stated that the petitioners sought to give their written representation to the respondent No.6, but he refused to take on record stating that explanation has to be submitted only by respondents 7 and 8 who have been served with show-cause notice. Though no explanation is filed, impugned notice, dated 31-05-2012 issued to the petitioners stating that since no layout is obtained for plots and plots have to be regularized, the concerned have to get regularization of plots within 15 days. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by respondent No.6 stating that till date no application has been given to the Grampanchayat for its approval. The petitioners have not submitted application either to the Grampanchayat or to the Director of Town and Country Planning for its approval. That the conversion certificate issued by the Revenue Divisional Officer is not enough to say that the layout is approved. The layout has to be approved by the District Town and Country Planning Authority according to G.O.Ms.No.67, dated 26-02-2002. It is the duty of executive authority to safeguard the common site left open for common public in the layouts. The Executive Officer is the only competent authority to take action against the

unauthorized layouts in the Grampanchayat area. The Grampanchayat is the only authority to release the layout finally after getting technical and final approval from the District Town and Country Planning. The Grampanchayat is the only authority to execute conditions imposed by the competent authority i.e. District Town and Country Planning. Unless the plots are regularized or layout is approved by the competent authority, permissions for constructions cannot be granted. As such, the petitioners would have to avail the alternative remedy of approaching the District Collector for its regularization and sought for dismissal.

Reply affidavit is also filed stating that as per Rule 11 of Andhra Pradesh Grampanchayat Land Development (Layout and Building) Rules, 2002 describes, prior and Technical approval from the Director of Town and Country Planning is necessary for certain permissions and as per Rule 11 of Rules, 2002 the competent authority for the prior Technical approval is the Grampanchayat of the village, if the population is less than 10,000. As per above provision, population of Valivarthipadu Grampanchayat is 3,000. Accordingly, the Valivarthipadu Grampanchayat passed resolution dated 30-07-2010.

Learned counsel for the petitioners submits that the Grampanchayat has approved the layout made by

the respondents 7 and 8 by passing resolution dated 30-07-2010 by respondent No.3. But when the petitioners wanted to file explanation, respondent No.6 refused to take the same. It is also submitted that respondent No.3 has permitted the conversion of land use. As such, the impugned notice is illegal.

On the other hand, learned Standing Counsel for respondents submits that technical approval is necessary for certain permissions.

It is to be seen that the allegation of the petitioners that the petitioners were not permitted to file explanation, when notice dated 31-05-2012 issued to the respondents 7 and 8 is not denied in the counter affidavit and the petitioners assert that the layout was obtained vide resolution No.57, dated 30-07-2010 of Grampanchayat, but the same is disputed in the counter affidavit.

In view of the above facts and circumstances of the case, the impugned notice can be treated as show-cause notice and it is open for the petitioners to submit all the relevant documents showing that the approval has been granted by Grampanchayat and also raise other contentions by way of filing explanation to the notice dated 31-05-2012 within a period of four weeks from today. On such submission, the respondent No.6 shall

issue notice to the petitioners and after affording opportunity of hearing, pass appropriate orders. Till then, interim order granted by this Court shall continue.

Accordingly, the writ petition is disposed of. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

10-07-2017
Nvl



