

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION Nos.18420 & 18430 OF 2011

COMMON ORDER:

W.P.No.18420 of 2011 is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue a Writ, Order and direction, more particularly one in the nature of writ of Mandamus, declaring the action of the first respondent in issuing the Proceedings bearing Lr.No.LRS/3649/CR-13/WZ/GHMC/2008 dt.23.3.2011 and subsequent amendment proceedings bearing Lr.No.LRS/3649/CR-13/WZ/GHMC/2008 dt.1.4.2011, to the petitioner and the consequential notice of the second respondent bearing Encr.No.01/TP/PTC-RCP/Cir-13/GHMC dated 31.5.2011 and Lr.No.G1/Cir-13/PTC&RCP/WZ/GHMC dated 1.6.2011, as being illegal, incompetent contrary to law, arbitrary and without jurisdiction and is also violative of the principles of natural justice and violative of Articles 14, 19, 21 and 300-A of the Constitution of India.”

W.P.No.18430 of 2011 is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue a Writ, Order and direction, more particularly one in the nature of writ of mandamus, declaring the action of the first respondent in issuing the Proceedings bearing Lr.No.LRS/3634/CR-13/WZ/GHMC/2008 and Lr.No.LRS/3648/CR-13/WZ/GHMC/2008 both dated 23.03.2011 as amended by proceedings bearing Lr.No.LRS/3634/CR-13/WZ/GHMC/2008 and Lr.No.LRS/3648/CR-13/WZ/GHMC/2008 both dated 01.04.2011 respectively and all consequential notices of the second respondent bearing Encr.No.01/TP/PTC-RCP/Cir-13/GHMC dated 31.05.2011 and Lr.No.G1/Cir-13/PTC&RCP/WZ/GHMC dated 01.06.2011, as being illegal, incompetent contrary to law, arbitrary and without jurisdiction and is also violative of the principles of natural justice and violative of Articles 14, 19, 21 and 300-A of the Constitution of India.”

2. Since the issue in both the writ petitions is one and the same, they are being disposed of by way of this common order.

3. Case of the petitioners is that they made applications to the Greater Hyderabad Municipal Corporation (for short, "the Corporation") for regularization of their plots in question and L.R.S. proceedings were issued by the respondent Corporation basing on the documents submitted by them. Later, on a petition filed by one R. Sarada Devi alleging that the plots in question are part of layout open space and the petitioners have obtained the L.R.S. approval by mis-representing the facts, the respondent Corporation observed that the plots in question are part of layout open space of approved layout by the D.T. & C.P., Hyderabad vide L.P.No.63/75 in file No.68/4P/75, dated 23.03.1975, and accordingly, cancelled the L.R.S. proceedings granted to the petitioners *vide* proceedings, dated 23.03.2011. The respondent Corporation has also issued amended proceedings on 01.04.2011 amending the mistakes in the plot numbers in the proceedings, dated 23.03.2011. Later, notices were issued to the petitioners on 31.5.2011 directing them to remove the said illegal encroachment within three (3) days from the date of receipt of those notices failing which, further action would be taken to remove the encroachments. Again, notices were issued to the petitioners on 01.06.2011 cancelling the vacant land tax notices which were given earlier. Hence, the petitioners filed the present writ petitions.

4. Learned counsel for the petitioners contended that prior to cancelling the L.R.S. proceedings, the respondent Corporation ought to have issued notice to the petitioners and ought to have given an opportunity of hearing them; that the third party, who

was aggrieved over the regularization of the plots in question, ought to have agitated the same before the statutory authority instead of approaching the respondent Corporation; that the petitioners have succeeded in the competent civil Court and that the plots in question are not earmarked as layout open space.

5. Learned Standing Counsel appearing for the respondent Corporation submitted that the petitioners have obtained the L.R.S. proceedings by mis-representing the facts and the said plots are part of the open space in approved layout and that the orders passed by the competent civil Court are not relating to the plots in question.

6. Considering all the facts and circumstances of the case and the rival contentions on either side, all the impugned proceedings and the notices issued by the respondent Corporation are hereby recalled and the respondent Corporation is directed to issue notice to the petitioners disclosing its intention to cancel the L.R.S. proceedings and after issuance of notice, it shall give an opportunity to the petitioners to raise their objections and produce all the relevant material and after hearing them, it shall pass appropriate orders in accordance with law.

7. With the above directions, both the Writ Petitions are disposed of. There shall be no order as to costs.

8. Miscellaneous Petitions pending, if any, in these Writ Petitions shall stand closed.

JUSTICE RAJA ELANGO

06.03.2017
AMD

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Date: 06.03.2017

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