

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 18511 of 2016

ORDER:

1) The action of the respondents in directing the petitioners to evict themselves from Door Nos. 13-739/ 129, 13-739/ 123, 13-739/ 116, 13-739/ 122 and 13-739.121 respectively, situated at Suryateja Nagar, Old Dairy Farm Post, Arilova, Visakhapatnam, is subject matter of challenge in the present writ petition.

2) The averments filed in support of the writ petition would show that the petitioners claimed themselves to be residents of the above door numbers since few decades by raising huts. It is their case that they obtained electricity and water tap connections from the concerned and also paying tax to the municipality. Pursuant to the representations made by the residents of the colony, the government issued G.O.Ms.No.295, Revenue (Assn.I) Department, dated 12.08.2015, formulating a scheme for regularisation of the houses situated in the land referred to above. It is the case of the petitioners that about 174 houses were erected in the said premises and with a view to regularize the allotment, the above G.O. is said to have been issued. As per the terms of the G.O., the petitioners made applications for regularization of the encroachments made into the land. Though the applications are pending, the respondent-authorities are trying to take steps to evict the petitioners in one form or the other. It is further stated in the affidavit that the respondents are stopping supply of water and power to the houses of

the petitioners. Hence, the petitioners filed the present writ petition.

3) The third respondent-Corporation filed counter disputing the averments made in the affidavit filed in support of the writ petition. It is their case that the entire Surya Teja Nagar, Arilova, was selected as pilot slum for redevelopment under Rajiv Awas Yojana scheme. Pursuant thereto, a detailed report was submitted to the Government of India for approval. The Committee constituted by the Central Government approved the project with a cost of Rs.1101.71 lakhs and a lay out has been prepared in the land admeasuring Ac.3.95 cents. The report also indicates that after preparing the list of beneficiaries the authorities have decided to construct 204 dwelling houses in the said lay out. Out of 204 dwelling units, individual houses are about 150 in number, meant for those who have been under occupation of large extent and 54 are G+1 houses meant for those who are in occupation of small extents. All the beneficiaries including the petitioners have given their consent in the year 2013. It is said that except the petitioners all other dwellers have shifted to a near by place where temporary accommodation is provided. It is also mentioned in the counter that after filing the writ petition, the first petitioner also gave an undertaking letter dated 11.07.2016 admitting that he gave consent for re-development as per the lay out, also stated to have vacated the premises, shifted to temporary accommodation and also stated that he would withdraw the writ petition.

4) It is also stated in the counter that though the third petitioner died on 13.05.2016, the writ petition came to be filed on 10.06.2016, which is sufficient to reject the same. On behalf of the death person, the second petitioner filed a affidavit before the Court. It is stated in the counter that the petitioners have executed consent deeds long back for construction of housing units under Rajiv Awas Yojana scheme but the same were suppressed. In view of the above, it is stated that the petitioners are not entitled for the relief sought for.

5) A reply came to be filed by the petitioners disputing the allegations made in the counter. It is stated that as per the undertaking letter, the Corporation has to pay an amount of Rs.3,75,000/- to each beneficiary for construction of independent houses and contrary to the same, the Corporation wants to construct dwelling units and then allot the units to the beneficiaries, which is contrary to the agreement entered into between the Corporation and petitioners. Insofar as the third petitioner is concerned, he has signed Vakalat prior to his death and the same has been handed over to his counsel at Hyderabad in the first week of May, 2016. It is stated that the third petitioner died before filing of the writ petition, but the said fact was not brought to the notice of the counsel. The averments in the reply affidavit also show that the signatures of some of the beneficiaries have been forged, as if they are given consent. Having regard to the above, it is said that action of the Corporation in trying to evict the petitioners from the premises is illegal and arbitrary.

6) From a reading of the averments made in the affidavit and counter affidavit, it is clear that the petitioners have encroached on to the government land and raised huts over the said land. The material on record also discloses that pursuant to a report submitted to Government of India, the Central Sanctioning and Monitoring Committee approved the report, took up the said slum for re-development under Rajiv Awas Yojana scheme and a sum of Rs.1101.71 lakhs was said to have been approved for the development of the project. Though the learned counsel for the petitioners denies about the consent given by the petitioners for re-development, but the documents filed show that the petitioners, who were shown at Sl.Nos.37, 38, 39 and 47 of the consent deed, gave their consent for re-development of the area under pilot project. The record also shows that all the slum dwellers have been shifted to a nearby transit accommodation, except the petitioners.

7) The material filed along with the counter show that the first petitioner herein gave a letter of undertaking dated 11.07.2016, admitting that he gave his consent for re-development as per the layout and that he has vacated and occupied the temporary accommodation. In view of the letter signed by the first petitioner and the consent given by the slum dwellers, the argument of the learned counsel for the petitioners that the signatures of some of the beneficiaries have been forged cannot be accepted. It may be true that the petitioners have submitted their applications for regularization as per the said G.O., but it is to be noted that for the benefit of slum dwellers, the Government has come up with a pilot

project of providing them with houses in the said area and till construction of the houses are made they have been provided with temporary accommodation. When the averments in the affidavit show that the petitioners are living in the huts raised in the said area, the scheme undertaken by the Corporation providing either independent pucca houses or group houses under G+1 would be a beneficial one. Hence, this Court is of the opinion that the petitioners, who are benefited by the scheme, cannot complain of any eviction. Since the names of petitioner Nos.1, 2, 4 and 5 have figured in the list of beneficiaries, this Court is of the view that they should be provided with temporary accommodation, if not already provided, before evicting them from the said places.

8) Insofar as third petitioner is concerned, the request of the immediate legal heir of the third petitioner may be considered along with the other petitioners.

9) With the above direction, the writ petition is disposed of. There shall be no order as to costs.

10) Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

JUSTICE C. PRAVEEN KUMAR

20.01.2017
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