

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE ABHINAND KUMAR SHAVILI

Writ Appeal No. 1716 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 14785 of 2013 dated 19.07.2017. The appellants herein filed the writ petition to declare the letter dated 20.12.2012 issued by the 3rd respondent, declaring the appellants-writ petitioners as ineligible for grant of possession certification cum provisional order for allotment of 23 houses (ground + first floor) in the group scheme by JUUNRM, GHMC, Hyderabad at Gyani Jail Singh Nagar, as illegal and arbitrary. A consequential direction was sought to the respondents to handover the constructed houses to all the petitioners under the housing scheme, without further delay, in Gyani Jail Singh Nagar.

Facts, to the limited extent necessary, are that the petitioners claimed to be in occupation of an extent of 882 square yards in Gyani Jail Singh Nagar which is situated in a prime locality in Banjara Hills, Hyderabad. Their case is that they were assured that group houses would be constructed in the said plot, and houses would be allotted to them by the Government; and, believing such a representation, they had vacated the said plot. Reference is made to certain correspondence between the State Government and the GHMC wherein some exercise appears to have been undertaken pursuant to the earlier order passed by this Court in W.P.No.676 of 2003 dated 20.06.2008.

W.P.No. 676 of 2003 was filed, by six of the appellants herein, to declare the action of the respondents in attempting to interfere with the possession, occupation and enjoyment of their respective pieces of land, and dwelling units constructed thereon duly confirmed under the pattas granted to them, as arbitrary and illegal. When this Writ Petition was finally heard, the Counsel, appearing on behalf of six of the appellants-writ petitioners, stated that, in view of the letter issued by the respondents dated 17.06.2008 and as the respondents had taken a decision to allot the slum area to the respective owners, the petitioners intended to withdraw the Writ Petition.

While the order, in W.P.No. 676 of 2003 dated 20.06.2008, records the petitioners' counsel having placed reliance on the letter dated 17.06.2008, a copy thereof has not been made a part of the record in the present writ petition, nor was the said letter placed before us for our perusal. Be that as it may, the petitioners herein later filed W.P.No.16339 of 2011 seeking a mandamus to declare the action of the respondents in not constructing 23 houses (ground + first floor) in the 882 square yards of land, under the group housing scheme by JNNURM, GHMC, Hyderabad at Gyani Jail Singh Nagar, as arbitrary and illegal.

W.P.No. 16339 of 2011 was disposed of by order dated 15.10.2012. In the said order the learned Single Judge observed that it was not for the Court to determine whether the GHMC would require a ward office at the location at which it was proposed to be constructed in the said 882 square yards; there could be no insistence by the petitioners that they should be given

houses, constructed in the said site only, even if they were found to be eligible on a socio-economic survey being conducted to extend the benefits of the JNNURM Housing Scheme; if there was a conflict between the public interest of the corporation and the private interest of the petitioners, there could be no doubt that the public interest of the Corporation should be preferred; and that, however, did not detract from the official respondents reconsidering the matter, and in accommodating such of the petitioners who were eligible for construction of such houses under the scheme even in any portion of such site, if it was still available.

The learned Single Judge then took note of the offer of the District Collector to have a socio-economic survey conducted within a particular time frame in respect of the 23 petitioners, and held that such of those petitioners, who were eligible, could exercise their option to be accommodated either at Nandanavanam or at the proposed colony at Hakeempet, or in any other scheme in the twin cities, which request could be reasonably acted upon by the Collector. The Writ Petition was disposed of in terms of the response of the District Collector in his affidavit dated 12.10.2012. The District Collector, Hyderabad was directed to have the socio-economic survey of the 23 petitioners caused, by a team consisting of the Revenue Divisional Officer, Secunderabad and others, within two months, and place the same before the Collector for further necessary action. The petitioners were permitted to appear before the Revenue Divisional Officer who, in turn, was permitted to cause notices to such of those petitioners, who did not appear on 29.10.2012, to appear before him as per the prescribed procedure.

The learned Single Judge further observed that such of those petitioners who, on such survey, would be found entitled to the benefits of the JNNURM Housing Programme, should be extended the benefit of exercise of option, for allotment of flats in Nandanavanam, Saidabad Mandal in Survey No.82, Bandlaguda or the proposed housing colony at Shaikpet Mandal in Survey No.102/1, Hakeempet near ABN Andhra Jyothi News Channel building, (stated to be within a furlong from the subject site of 882 square yards), or in any other such scheme under execution or proposed anywhere in the twin cities. The District Collector was directed to extend the benefits of the scheme to such of the petitioners who were eligible, and as per the option exercised by them. The learned Single Judge made it clear that these directions did not stand in the way of the official respondents considering the request of any of the eligible beneficiaries, among the 23 petitioners, for being extended the benefit of having such houses under such scheme constructed in any extent of land still available in the subject 882 square yards also.

The order in W.P.No.16339 of 2011 dated 15.10.2012 has attained finality, and is binding not only on the respondents but on the appellants-petitioners also. The socio-economic survey, which the District Collector, Hyderabad was directed to cause, was to ascertain whether the appellants-petitioners were eligible to be allotted flats either in Nandanavanam, Saidabad Mandal or at Hakeempet. The socio-economic survey caused to be conducted was not for allotment of house sites or buildings on the 882 square yards of land at Gyani Jail Singh Nagar. All that the learned Single Judge has observed, in the aforesaid order in W.P.No.16339 of

2011 dated 15.10.2012, is that the directions issued by him would not disable the official respondents from considering the request of those eligible beneficiaries, among the 23 petitioners, for being extended houses under the scheme, constructed in any extent of land still available in the subject 882 square yards. The mere fact that it was left open to the official respondents to consider the request, would not justify the petitioners now seeking a mandamus that they should be allotted houses in the very same location at Gyani Jail Singh Nagar in Banjara Hills, Hyderabad.

The socio-economic survey caused by the Revenue Divisional Officer, records reasons why 14 of the petitioners, who appeared before the Revenue Divisional Officer, were found ineligible for being extended the benefits of construction of houses, in terms of the directions issued in W.P.No.16339 of 2011 dated 15.10.2012.

While Sri P. Vishnuvardhana Reddy, learned counsel for the appellants-writ petitioners, would contend that the socio-economic survey was not conducted properly, and the socio-economic conditions of the petitioners, when they were initially evicted in the year 2003, should be taken into consideration, and not their socio-economic status in the year 2012, the fact remains that the petitioners have no right to claim that they should be extended, as of right, the benefits under a Government scheme. Those who are eligible for such benefits can only claim that they should also be considered, along with all other eligible candidates, for being extended such benefits. In the absence of any right conferred in their favour, to be allotted either house sites or houses at a particular location, the petitioners cannot invoke the extra-

ordinary jurisdiction of this Court, under Article 226 of the Constitution of India, for grant of such a relief. In any event, it is evident from the report of the Revenue Divisional Officer that 14 of the 23 petitioners were found ineligible to be extended such benefits.

The learned Single Judge has, in the order now under appeal before us, considered the report of the Revenue Divisional Officer in detail, and has held that 14 of the 23 petitioners were not eligible to be extended the benefit of construction of a group house under the scheme. Interference, in an intra-Court appeal under clause 15 of the Letters Patent, would be justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the said order necessitating our interference.

Sri P. Vishnuvardhana Reddy, learned counsel for the appellants-writ petitioners, would submit that, since only 14 of the 23 petitioners were served notices and it is only they who were found ineligible to be extended the benefits of construction of group houses, this Court may consider leaving it open to 9 petitioners, who did not attend the enquiry before the Revenue Divisional Officer, to make a representation to the Government for being extended the benefits of the housing scheme. While we see no reason to issue a mandamus in this regard, suffice it to leave it open to the 9 individuals, who did not appear before the Revenue Divisional Officer earlier, to submit a representation to the concerned officials. We have no reason to doubt that, on such a representation being made, the authorities concerned will give such a representation its due consideration.

The writ petition, however, fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(ABHINAND KUMAR SHAVILI, J)

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