

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.3729 of 2004

ORDER:

Challenging Resolution No.28, dated 29.12.2003, of the 1st respondent-Secunderabad Cantonment Board, the petitioners filed the present Writ Petition.

2) The 2nd respondent-M/s. Ravathy Mutually Aided Cooperative Housing Society Limited, Secunderabad, had approached the 1st respondent-Cantonment Board seeking approval of the lay-out over an extent of 2-928 acres situated in Sy.Nos.62, 63 and 64 at China Thokatta, Bowenpally, Secunderabad Cantonment. The 1st respondent-Cantonment Board vide impugned Resolution, based on the legal advice rendered to the Board, had recommended sanction of the lay out to the sanctioning authority i.e., Directorate of Defence Estates, Southern Command, Pune. In the Resolution, the Board was also appraised the litigation pending, with respect to the title, between the 2nd respondent society and others, by making a specific reference to O.S.No.3 of 2003 on the file of the learned I Additional Judge, City Civil Court, Secunderabad, as well as W.P.No.19946 of 1996 and C.R.P.No.282 of 2000, pending before this Court. It is the contention of the petitioners that the Board ought not to have entertained the Application of the 2nd respondent and ought not to have recommended for sanction of the lay-out on account of the fact that there is, admittedly, a civil suit pending before the Civil Court with respect to the title of the property. Though this Writ Petition is of 2004, there are as many as 16 other private parties and vakalath is filed only on behalf of the 2nd and 3rd respondents and the other respondents are not represented either in person or through counsel.

3) Learned Standing Counsel for the 1st respondent submits that they had acted *bona fide* on the basis of the legal opinion rendered by

their counsel and, at any rate, by imposing specific conditions with respect to the title and subject to the final result in O.S.No.3 of 2003 on the file of the learned I Additional Judge, City Civil Court, Secunderabad, as well as, W.P.No.19946 of 1996 and C.R.P.No.282 of 2000 pending before this Court, recommendation was made to the 18th respondent, who is ultimate authority to consider the request of the 2nd respondent.

4) Having regard to the respective submissions, at the outset, it may be noted that W.P.No.19946 of 1996 and C.R.P.No.282 of 2000 mentioned in the Board's impugned Resolution, were disposed of by a common order of this Court, dated 20.02.2018. The essence of the orders of this Court, dated 20.02.2018, is to the effect that the competent authority shall decide the merits of the matter in accordance with law, particularly in terms of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950. In other words, the right title with respect to the land situated in Sy.Nos.62, 63 and 64 of Thokatta Village, is required to be decided by the competent authorities. In such circumstances and considering the fact that the 2nd respondent's claim is only based on an agreement of sale, sanctioning of lay-out, even provisionally, is not in order. In those circumstances, the impugned Resolution, dated 29.12.2003, is set aside to the extent of sanctioning provisional lay-out in favour of the 2nd respondent, leaving it open to the parties to work out their remedies in accordance with law.

5) Accordingly, the Writ Petition is allowed. No costs.

6) Consequently, Miscellaneous Petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J.

Date: 22.10.2018.
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