

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.4005 of 2018

ORDER:

Heard learned counsel for the petitioners and Sri N.Venkateswarlu, learned Standing Counsel for the 2nd respondent Municipality, from oral instructions and learned Government Pleader for Municipal Administration for respondent No.1 and perused the prayer in the writ petition with supporting affidavit and the other material on record.

2. The prayer in the writ petition reads as follows:

“.....to issue an appropriate Writ, Order or direction more particularly a Writ in the nature of Mandamus declaring the action of the respondents, particularly the 2nd respondent in trying to Construction of Children Park in the Housing Board Colony in Sy.Nos.299, 300 situated in the Amalapuram Municipal Area of East Godavari District, without considering the representation dated 28.11.2017 and contrary to the Rule 53 of A.P. Building Rules 2017 as illegal, arbitrary, and contrary to the Rule 53 of A.P. Building Rules 2017 and contrary to the Provisions of A.P. Municipalities Act and consequentially direct the respondents to follow the A.P. Building Rules and the Provisions of A.P. Municipalities Act and pass order or orders as this Hon'ble Court may deem fit in the circumstances of the case.”

3. It is the supporting affidavit averment vis-à-vis the oral submissions of the learned counsel for the petitioners that the Government brought to force A.P. Building Rules, 2017 and as per Rule 53 sub-rule (1), the requirement of the approach road for

building sites/plots fixed as a minimum requirement and table 14 and 14A clause (2) also speaks in this regard of category B1 with road width under sub clause (3) for Non-High Rise (Residential) buildings including Group Housing with cellar/stilt and its permissibility in all the requirement of 33 feet road to be left and without providing a space for parking of vehicles before Children Park and for the vehicles to come to the park, the 2nd respondent is proposing to construct compound wall to the Children Park to develop the park, which is in front of the houses of the petitioners, is the core of the contention. It is not a case of the petitioners that the Housing Board layout is now developed pursuant to 2017 Rules. Even the very writ petition averments show the houses are in existence of the Housing Board layout for more than 20 years. Once such is the case, the area of the roads to be left and provided already were as per those specifications.

4. Undisputedly, there is an earmarked park, which is for the communal purpose of the residents of the locality and once the municipal authorities are constructing compound wall to protect the park and develop the park further, the petitioners cannot raise any objection saying the park area is to be left for roads and what they are saying is for those vehicles to visit the park there is no providing of vehicle parking place. The providing of park is different. The municipal authorities need not provide parking place for the gratuitous park for the children to visit, thereby that contention or representation

in this regard is also untenable, much less to consider or direction to consider. So far as the other submission that vehicles are parking around the houses of the petitioners on the public road blocking their access, remedy is left open to them to approach the Executive Magistrate under Section 133 of the Cr.P.C. to abate the public nuisance and if at all further required from any breach of peace to invoke the provisions of Section 106 to 116 of the Cr.P.C. through police to initiate proceedings for breach of peace and tranquillity.

5. Accordingly and with these observations, the writ petition is disposed of for nothing more to consider.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

19th February 2018

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Dr. B. SIVA SANKARA RAO, J