

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.6940 of 2018

ORDER:

Heard the learned counsel for petitioner, Sri Pasham Krishna Reddy, learned counsel for 3rd respondent and Sri V.Narsimha Goud, learned counsel for 4th respondent.

2. Petitioner has assailed the order dt.17-11-2017 passed by 3rd respondent refusing building permission to the petitioner *inter alia* on the ground that the petitioner did not submit link documents to his sale/title deed and also on the ground that the plot No.627 owned by the petitioner in the layout sanctioned by HUDA, the predecessor of the 4th respondent, falls in Sy. No.202 of Hariharapuram, Saheb Nagar Kalan and falls in waterbody open space buffer zone of Kaprai Cheruvu tank.

3. The petitioner submits that through the online portal of 3rd respondent, petitioner has uploaded the link documents as can be seen from Ex.P-9 and the allegation leveled by 3rd respondent that he did not submit the link document is incorrect. He also pointed out that the sale deed under which he has purchased the plot was also uploaded on the website and Ex.P-9 reflects the same and the allegation that the sale deed is also not submitted is not correct.

4. As regards the allegation that the petitioner's site falls in water body of Kaprai Cheruvu made by 3rd respondent, petitioner

contends that once the petitioner's plot is found in the sanctioned layout granted by the HUDA, such a contention cannot be raised because under Section 53 (1) of the HMDA Act, 2008 (for short 'the Act'), 3rd respondent has no jurisdiction to override the decision taken by the HMDA or the predecessor of the HUDA.

5. Sri V.Narsimha Goud, learned counsel, appearing for 4th respondent, supports the petitioner and states that 3rd respondent has no jurisdiction or authority to question the layout sanctioned by 4th respondent's predecessor HUDA in view of Section 53 of the said Act.

6. Though this legal position is not disputed by Sri Pasham Krishna Reddy, learned Standing Counsel for 3rd respondent, he placed reliance on the proceeding dt.12-04-2018 issued by the Tahsildar, Hayatnagar Mandal, Ranga Reddy District, to the Deputy Commissioner of the GHMC, Circle-III, wherein the said Tahsildar had stated that the plot of the petitioner falls in the bund area of the said tank.

7. In my considered opinion, this document has been procured after the Writ Petition is filed, and the Tahsildar, Hayatnagar Mandal, Ranga Reddy District, has no jurisdiction to take a different view from that expressed by HMDA/HUDA and treat the petitioner's plot as one falling in the bund area of the said tank. If the Revenue Department intends that petitioner's plot should be used as a bund

area for the tank, they are at liberty to initiate proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and acquired it by paying market value to the petitioner as per the said Act.

8. However, they cannot intervene and stop the petitioner from making construction in his property. So the 3rd respondent cannot also refuse to consider petitioner's application for building permission on the pretext that the petitioner's land falls in the bund area of the said tank.

9. It is not denied by the learned Standing Counsel for GHMC or the learned Standing Counsel for HMDA that several plots in the layout have already been constructed upon after permission was granted for the same by 3rd respondent. So it is obvious that the petitioner is being discriminated by 3rd respondent without any valid reason.

10. Therefore, the impugned order passed by 3rd respondent is set aside; the petitioner is directed to supply the sale deed, link document and land conversion use documents viz., Exs.P-7 and P-8 again by RPAD to 3rd respondent and 3rd respondent shall consider petitioner's application for grant of building permission without reference to any objection raised by either 2nd respondent or the Revenue Department that the subject property is falling in the bund area of the Kaprai Cheruvu, within three weeks from the date of

receipt of a copy of documents from the petitioner and communicate his decision to the petitioner.

11. Accordingly, the Writ Petition is disposed of. No costs.

12. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 16-04-2018
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