

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.26095 of 2017

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Municipal Administration for the 1st respondent and Sri K. Sampath Prabhakar Reddy, learned Standing Counsel for respondent Nos.2 to 4 (GHMC) and perused the prayer in the writ petition with supporting affidavit and the material and additional material since received and the written instructions.

2. No doubt, it is one of the contentions in the written instructions of the Revenue Department is a necessary party, this Court also felt necessary, but for to say in the factual matrix not required otherwise. Hence, the objection can be overruled on maintainability of the writ petition for non-impleadment of the Revenue Department merely because LGC filed by the Revenue Department is still pending.

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

“.....to issue a Writ, Order or Direction more particularly one in the nature of WRIT of MANDAMUS declaring the action of the respondent No.3 in not considering the LR's application No.3577 filed by the petitioner seeking regularization of Plot No.25 situated in Survey No.44/1 (Part) of Miyapur, Serilingampally Mandal, Rangareddy District on the ground that the Land Grabbing Case No.29 of 2006 is pending, as illegal, arbitrary and unconstitutional and consequently direct the respondents to regularize the petitioner's plot No.25 situated in Survey No.44/1 (Part) of Miyapur, Serilingampally Mandal, Ranga Reddy District and pass such other order or

orders as are deem fit and proper in the circumstances of the case.”

4. The supporting affidavit averments in nut shell are the LRS issued for the Plot No.25 in Sy.No.44/1 concerned, application already submitted by the petitioner and the proceedings of the GHMC socalled Zonal Commissioner, dated 29.04.2017, speaks that because of LGC No.29 of 2006 is pending that was filed by RDO, Chevella, the applicant be permitted to submit clearance from the revenue authorities to consider the LRS, thereby returned without approval. The written instructions speak that the schedule property is part of Sy.No.44/1 of Miyapur Village and it is unauthorised layout, whereas the adjacent layout of Mathrusri Cooperative House Building Society Limited is an authorised layout and so far as the petitioner concerned, there is no LRS approval and there is no building permission by GHMC because of the LGC No.29 of 2006 is pending. In fact, in the written instructions it is mentioned that the plot owners of Mathrusri Cooperative House Building Society Limited approached the High Court and orders are passed for granting permission subject to the satisfying with the requirements of Section 428 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, ‘GHMC Act’) and after giving undertaking that the petitioners respectively would not claim equities or costs of the building construction in the event LGC is decided against them and in favour of the Revenue Department. One of such cases from perusal of the order in W.P.No.12861 of 2007 shows from the observations in relation to

Sy.No.44/1 covered by the LGC No.29 of 2006 lis that the injunction granted by the Land Grabbing Special Court against which the Division Bench of this Court in W.P.No.3973 of 2007 and batch and batch and the Division Bench found that the Special Court while granting injunction ought not to have shown any distinction between the socalled owners, who purchased and already obtained permissions and others who could not obtain such permissions, and thereby dismissed the application filed by the State for injunction by vacating the same with observation of any alienations pending LGC are always subject to the LGC case and in W.P.No.12861 of 2007 therefrom observed that having regard to the fact of no injunction is subsisting against the petitioner or the society from whom the petitioner purchased the property in question in Sy.No.44/1, there is no justification for the GHMC to reject the building permission merely for the reason of injunction of LGC is pending in respect of the land of which the petitioners land formed part and in the event LGC goes against the petitioner and the Mathrusri Cooperative House Building Society Limited, it is always open to the State to recover the property, thereby in directing subject to satisfaction of Section 428 of the GHMC Act to consider the grant of building permission and the petitioner shall give undertaking of not to claim equities or compensation for costs of building for such consideration of grant of building permission.

5. From the above, coming to the facts so far as plot No.26 concerned, a permission is already accorded by the proceedings of the Commissioner of GHMC, dated 05.06.2012 undisputedly. So far as the petitioner's LRS regularization concerned, what the notice issued by the GHMC of the same is admittedly pending with them on 29.04.2017 is to obtain clearance from the revenue authorities because of LGC No.29 of 2006, there is no other ground mentioned for considering the LRS as coming in the way. Once such is the case, there is no requirement of any clearance certificate from the revenue authorities in relation to the said LRS regularisation for plot No.25 of the petitioner concerned from Sy.No.44/1.

6. Having regard to the above, the case of the petitioner also required to be considered at par with the other matters where subject to the undertaking not to claim equities in the event of consideration of success in LGC the permission has to be accorded by regularisation of the LRS pending.

7. Accordingly, the writ petition is disposed of.

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

15th February 2018

mar

Dr. B. SIVA SANKARA RAO, J