

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION.NO.13225 OF 2017

ORDER:

Heard the learned counsel for the petitioner, learned Standing Counsel for respondents 2 and 3 and learned counsel for 4th respondent.

This Writ Petition was filed challenging the action of the respondents 2 and 3 in uploading in Web status of L.R.S. of the Writ Petitioner submitted with regard to the development of layout/construction of houses in an extent of Ac.6.31 ½ guntas in Survey Nos.461/A, 461/P, 462 part and 439 of Bowrampet Gram Panchayat, Quthbullapur mandal, Medchal district and threatening to demolish the houses which are having building permission of the 4th respondent, without disposing of the representation dated 23.1.2017 filed by the writ petitioner.

It is stated in the affidavit filed in support of the Writ Petition that the Writ Petitioner has been undertaking construction of small houses, flats etc., It entered into a Registered Development Agreement for the above land for developing the agricultural land into residential layouts. The total extent of the land was owned by several persons. They obtained a layout permission from the 4th respondent in 1998 Under Section 121 of the A.P. Panchayat Raj Act, 1994.

Though they have obtained permission, they could not develop the layout or construct the houses in view of their financial condition. They entered into a development agreement-cum-GPA with the petitioner on 10.2.2015. Thereafter, the petitioner approached the respondents 2 and 3 for approval of the layout in accordance with the regulations. But it was informed to the petitioner that they would have jurisdiction only if the area for the proposed layout/development is Ac.10.00 cents as per GO.Ms.No.288 MA & UD dated 3.4.2008 read with GO.Ms.No.526 MA & UD dated 31.7.2008 etc. Since the area involved in the instant case is less than Ac.10.00 cents and the respondents 2 and 3 lack jurisdiction over the issue, the petitioner obtained permission from the 4th respondent for construction of ground plus first floor. After obtaining permission from the 4th respondent, the petitioner proceeded with the development work/construction of 93 houses by leaving space for main roads, internal roads and open place as per the norms. While so, the Government of Telangana introduced a scheme for layout regulation under GO.Ms.No.151 dated 2.11.2015. The petitioner already constructed villas and developed the layout. But, in view of the scheme, the owners as well as individuals who purchased the villas applied for regularization within the time frame fixed under the said

Government Order. The respondents 2 and 3 issued notice on 14.12.2016 to the petitioner informing that no development work shall take place on the land without obtaining appropriate permission from the 2nd respondent. The petitioner submitted a reply on 23.1.2017 and also stated that the L.R.S. application is not disposed of. The respondents 2 and 3, at the time of receiving the explanation on 23.1.2017 informed the petitioner that they would inspect the land and call for appropriate explanation if it is necessary. In spite of several efforts made by the petitioner, the respondents 2 and 3 did not respond thereafter. However, there was a threat for demolition of the houses already constructed. In those circumstances, he filed the present Writ Petition.

This Court, by order dated 13.4.2017 directed the respondents to maintain status-quo.

Seeking vacation of the said order, the respondents 2 and 3 filed a counter affidavit stating that the petitioner had been going on with construction of 93 villas in the said land without obtaining any valid permission from the competent authority particularly from the 2nd respondent. In reply to the notice issued by the 2nd respondent, a representation was received from the petitioner on 23.1.2017 stating that they have taken layout and building permission from the 4th respondent Gram

Panchayat since the land is less than Ac.10.00 cents. The representation was examined in detail and it was observed that the layout permission granted by the 4th respondent is not valid and the Gram Panchayat has violated the powers delegated to them under GO.Ms.No.408 M.A. dated 8.8.1991 and letter dated 17.1.2009 issued under Section 23 of HMDA Act, 2008. The 2nd respondent received 93 LRS applications in the above gated community and they are being examined by the respondent authorities for eligibility as per the Government guidelines issued in GO.Ms.No.151 dated 2.11.2015.

It is also stated that Bowrampet village, Quthbullapur mandal, Ranga Reddy district comes under the jurisdiction of erstwhile Hyderabad Urban Development Authority and the village comes under the revised Master Plan 2020 issued in GO.Ms.No.288 MA dated 3.4.2008. Therefore, the so called permission obtained by the petitioner from the 4th respondent is without jurisdiction.

It is also stated that the petitioner has not filed any application to the 2nd respondent though he could have applied for construction of gated community villas. Hence, the construction of the villas is bad. Ultimately, it is stated that the respondent authority would issue notice to the concerned developer and verify the LRS applications before taking up any

demolition activity. The representation of the petitioner dated 23.1.2017 was already disposed of.

In view of the above averments in the affidavit filed in support of the Writ Petition and that of the counter affidavit, it is clear that the petitioner is a developer and pursuant to the scheme of layout regularization, 93 villa owners applied for the same. Out of the said 93 applications, 50 applications were stated to be liable for rejection since the title verification remarks did not satisfy the authority. In respect of the remaining applications, it was noticed that there was short fall of documents and they were put on notice with regard to the same. Though the petitioner stated that he obtained permission from the 4th respondent, now it is stated that in the absence of any permission from the erst while Hyderabad Urban Development Authority, the permission obtained from the 4th respondent is not valid in law. However, this Court noticed that there is no final order passed by the 2nd respondent on the 93 LRS applications and now there is a threat of demolition of the villas.

In the circumstances, it is open to the 2nd respondent to consider the applications filed by the villa owners and any application filed by the petitioner and pass appropriate orders thereon within a period of four weeks from the date of receipt

of a copy of this order. Till such time, the order of status-quo granted by this Court on 13.4.2017 shall continue.

Writ Petition is accordingly, disposed of.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

A. RAMALINGESWARA RAO,J

Date: 1.5.2018

KPM

