

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.14820 OF 2018

ORDER:

Heard Mr.Balarami Reddy for petitioners and the learned Additional Advocate General for respondents 1 to 4.

The petitioners pray for Mandamus directing the respondents not to evict the petitioners from the house-site plots in their possession and enjoyment namely, covered by File No.C3217/99 and E1/2954/99 dated _10.2000 in Survey Nos.149,152 and 154 in an extent of Ac.16.00 at Tungapahad Village, Miryalaguda Mandal, Nalgonda District without recourse to law, as illegal, arbitrary and unconstitutional.

The petitioners rely on house-site pattas granted in the year 2000 by respondent No.4. The case of petitioners in this behalf is that the 3rd and the 4th respondents without issuing notice, conducting enquiry or affording opportunity to petitioners are trying to dispossess or evict the petitioners from subject house-site plots. The petitioners assert that 53 petitioners are in possession and enjoyment of house-site plots allotted to them and there is threat of dispossession and demolition from respondents. On 25.04.2018 and 26.04.2018 at the request of respondent Nos. 3 and 4, the writ petition was adjourned to get instructions and also produce the record. On 11.06.2018, respondent No.4 has produced the record of assignment and also the record relating to resumption proceedings taken up by 4th respondent in this behalf. This Court finds it convenient to refer to the case of respondents 3 and 4 at this juncture namely, that according to respondents 3 and 4, the house-

site pattas standing in the names of petitioners are cancelled after issuing notice and following the procedure. After hearing the counsel appearing for the parties on 11.06.2018, the writ petition was adjourned by passing the following order:

“The Tahsildar/respondent No.4 is present at the time of hearing. The record made available is perused.

The Assistant Government Pleader seeks one week time to get instructions from the District Collector, Nalgonda/respondent No.2 .

Since I have taken note of admitted and disputed circumstances, pending consideration of the grievances of petitioners, to meet the ends of justice, the Court directs maintenance of status quo as regards possession of 53 petitioners.

Post on 18.06.2018 in adjourned motion list.”

The subject land is an extent of Acs.17-17 ½ gts. in Survey Nos.149,152 and 154 of Tungapahad Village, Miryalaguda Mandal, Nalgonda District. According to respondents, 704 house-site pattas were granted. As against 704 beneficiaries, only 103 beneficiaries have constructed houses and thereby 601 assignees have not complied with Condition No.1 read with Condition No.11 of Assignment Conditions. Therefore, the respondents claim to have issued show cause notice. A few replies were received and thereafter 272 plot owners did not file their reply at all. Therefore, according to respondent Nos. 3 and 4, resumption order dated 15.06.2017 was passed and thereafter the respondents claim to have taken possession of firstly the entire extent in Survey Nos.149,152 and 154 i.e. an extent of Acs.17-17 ½ gts. By referring to ground position, it is stated that the respondents are constructing 2 BHK houses in Acs.7.00 and petitioner Nos.27, 28 and 29 are alone

affected by the construction undertaken by the respondents. It is the case of both sides that the balance of extent is not for the present subjected to development in to 2 BHK houses. The issue now raised by the petitioners is that the resumption order dated 15.06.2017 is violative of principles of natural justice, the order is not communicated to petitioners and the respondents cannot assume unilateral recording of possession in their favour more particularly, when structures are in existence. The learned Additional Advocate General, on instructions, submits that the respondents are keen to complete the 2 BHK houses now developed in Acs.7.00 as they are at the advanced stage of construction. He fairly states that without getting into legal niceties insofar as three petitioners are concerned, respondents 2 to 4 are prepared to consider the cases of petitioner Nos.27,28 and 29 to allot 2BHK houses now developed in Acs.7.00, consider their case subject to petitioners satisfying the criteria of State in G.O.Ms.No.10 dated 15.10.2015 and G.O.Ms.No.12 dated 26.11.2015. The statement insofar as petitioner Nos.27, 28 and 29 is accepted and these petitioners are given liberty to represent to the Revenue Divisional Officer, Miryalguda/3rd respondent for consideration and allotment of 2BHK houses to them. With the consideration of these petitioners, this Court is required to consider the challenge of 50 petitioners to the order of resumption and also the stand of both the parties.

I have perused the record and also taken note of the submission made by the learned Additional Advocate General.

This Court is of the view that the petitioners can be permitted to file representation/appeal against the resumption order dated 15.06.2017 within 15 days from the date of receipt of a copy of this order. Keeping in view the submission of learned Additional Advocate General, it is needless to observe that the Revenue Divisional Officer, Miryalguda considers the cases of petitioners herein as was done in the case of other assignees whose assignment has been confirmed without resumption. A few of the petitioners, if wish to have 2BHK houses, can also make a prayer and their cases will be considered subject to those petitioners agreeing to give up their claim on the house-site pattas. The said exercise is directed to be undertaken and completed within six weeks from the date of receipt of representation/appeal. To the extent of Acs.10.00, which is now not subjected to development of 2BHK houses, the parties are directed to maintain status quo as regards possession and physical features alone. This Court has no reason to doubt that the 3rd respondent will look into the file and take decision judiciously and objectively to further the interest of 2BHK houses.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:18.06.2018
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