

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

C.C.Nos.1148 OF 2018 & 2029 OF 2017

COMMON JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

These two contempt cases are filed by the employees of A.P. High Court Employees Mutually Aided Co-operative Housing Society Limited, High Court Buildings, Hyderabad (for short 'High Court Employees Housing Society') complaining disobedience of the order dated 05.03.2013 in W.A.No.260 of 2013 and batch.

The operative portion reads thus:

"Now after the change of circumstance and passage of several years, since the tentative layout has been sanctioned by the municipal corporation and the general body of the society has already passed a resolution to allot land to each and every member of the society, we feel it is necessary for us, at this stage, to modify the order so passed by the Court. We direct that the allotment should be made to all the members as agreed in the general body meeting of the society subject to the result of the writ petitions challenging the eligibility criteria of the persons, who have been taken in as members of the society. We appoint three independent persons of this Court, being the learned Advocates, to supervise the allotment and we direct them to hold lottery system to allot plots in favour of members of the society. Accordingly, we appoint (1) Mr. D.V. Seetharama Murthy, learned senior counsel, (2) Mr.S. Satyam Reddy, learned senior counsel and (3) Mr. C. Ramachandra Raju, learned counsel, as an independent committee, under whose supervision the allotment work should be taken up by the appellant – society by way of lottery. We further make it clear that in case, the writ petitioners succeed in the writ petitions;

the members, who are not eligible for allotment of plot, shall vacate the said plot subject to any order being passed by the Court.

We further direct that the allotment should be made by the society under the supervision of the aforesaid committee, by way of lottery, within a period of two (2) weeks from today. The batch of writ petitions, being WP.No.6112 of 2013 and WP.Nos.18811, 18851, 18861, 18910, 18935, 18962, 20123 and 27537 of 2007, and any other connected writ petitions be listed before the appropriate learned single Judge having roster after two (2) weeks and we only request the learned single Judge to dispose of the matters within a period of three (3) weeks so that matter can be resolved once for all".

The gist of disobedience complained against the order dated 05.03.2013 is that the allotment of plots as directed by this Court has been completed as per the tentative layout dated 30.01.2013. Respondent Nos.2 to 4 cannot now take steps to revise the tentative layout dated 30.01.2013 as per their choice, thereby disturbing the allotment already made as per tentative layout dated 30.01.2013. The calling for General Body Meeting through notice dated 10.07.2017 to be held on 22.07.2017 to discuss the agenda mentioned in the said notice; agenda item Nos.5 and 7 are upholding the orders in writ appeal. The proposed agenda Nos.5 and 10 which consists of group houses, apartments would disturb the allotment of plots and layout development already made by the Housing Society. The further act of disobedience complained is that circular dated 26.08.2017 was issued by respondents 2 to 4 seeking willingness of the members for group houses to be

constructed in the land allotted by the Government. Hence, the contempt cases complaining disobedience of order in writ appeal.

The chronology of events from the date of allotment till date has been considered in the common judgment dated 28.12.2018 in W.P.No.18935 of 2007 and batch.

The view expressed by us on these steps while disposing of W.P.Nos.36900 of 2016 reads thus:-

“We are of the view that this objection at the instance of the petitioner ought not to be entertained having regard to the effective remedies the petitioner has against the very elections which were conducted on 05.11.2016 and that the elections could be a matter of challenge in proceedings initiated before Court of competent jurisdiction. The petitioner alternatively insists on allotment of plot size as finalized pursuant to W.A.No.260 of 2013 dated 05.03.2013. The prayer of petitioner for completion of allotment as per the plots allotted pursuant to order in W.A .No.260 of 2013, dated 05.03.2013, and direct the District Collector to register the respective plots does not sink with the legal character and entity the 3rd respondent in law enjoys as on date. The District Collector is under no obligation to accept the responsibility of registering plots at the instance of petitioner to the members of 3rd respondent society. The member in a society is obliged to go with the resolutions of general body of managing committee. This prayer is completely misconceived and without further deliberation the submission is rejected. The petitioner insists on adhering to the layout sanctioned in January, 2013. The elected body of the Housing Society in the meeting convened on 22.07.2017 has taken a few decisions. The 3rd respondent society received letter dated 14.05.2018 vide proceedings 6951/14/22/23011-18/399 rejecting the request of 3rd respondent society for renewing the tentative layout and the managing committee convened a meeting on 01.06.2018 and submitted a revised layout plan to the

Commissioner, GHMC which is now treated as comprehensive layout-building approval plan. The managing committee in its competence and power has taken the decision to provide plots as per the plan now sanctioned by the competent authority to 1112 members of the Housing Society. The petitioner cannot raise a dispute under Article 226 and insist on implementation of layout which does not have life or currency due to communication dated 14.05.2018 by the Commissioner, GHMC. The members of the Society are cooperating with the 3rd respondent society through the elected body in office and it is specious to petitioner to contend that the society is not in existence etc., and further complicate all the issues. The prayers made in the writ petitions lack bonafides and are not in line with the cooperative movement basing on which employees of High Court joined together for common good and benefit. Therefore, this writ petition fails and is accordingly dismissed”.

This Court is of the view that the directions now sought are by reference to a particular stage of development of subject land namely that a tentative layout was sanctioned on 30.01.2013. The High Court Employees Housing Society cannot and could not be said as restricted by this Court in any manner to fully utilise the limited extent of land sanctioned by the Government for providing plots to its members. Further, the prayer refers to a layout which is not in vogue in, view of the order of competent authority refusing to renew the currency.

The case of petitioners that the allotment is also completed needs re-examination, having regard to the objections raised on the documents relied on by the petitioner/the High Court Employees Housing Society. The disobedience complained in the facts and circumstances of this case is not made out. We are not persuaded to proceed with the Contempt Cases.

The Contempt Cases are, accordingly, dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

28th December, 2018
Prv

