

HON' BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

W.P. No. 30176 of 2013

ORDER:-

This writ petition is filed seeking to declare the Notice in R.C.No. 6232/ 09/ 1/ 1Ann-III/ 9, dated 23.09.2013 issued by the 2nd respondent, as illegal and arbitrary.

The case of the petitioners is that they are absolute owners and possessors of the subject property; and their lands are proposed to be acquired by the Government for formation of beach road by providing alternative sites; the petitioners agreed to offer their lands to the Government for the said proposal; the Government allotted alternate lands in L.P.No. 36/ 2009 in Sy.No.34/ 1 of Rishikonda layout and agreed for registration for 6 plots Nos.6, 7, 16, 17, 18 and 29 and executed registered sale deeds on 17.03.2010 in faouvr of the petitioners. While so, the petitioners' grievance is that the 2nd respondent issued Notice dated 23.09.2013 proposing to cancel the allotment made to the petitioners. The only remedy available under law to the 2nd respondent for cancellation of the registration of sale deed is by filing a civil suit under Section 31 of the Specific Relief Act or by following the procedure under Rule 26(k)(i) of the Registration Act, and except this, unilateral cancellation of sale deed cannot be done on any other ground.

The 2nd respondent has filed counter affidavit *inter alia* stating that the Vice Chairman, VUDA, Visakhapatnam has submitted a detailed report to the Government duly indicating that on the whole the VUDA has sustained heavy loss on different layouts due to irregular allotment of developed plots; on the said report, the Government directed the Vigilance and Enforcement Department to conduct an enquiry into the allotments made by VUDA; the VUDA, vide Resolution No.47, dated 20.07.2013, approved for constitution of committee of the Heads of Department to finalize the list of irregular allotments and to present report thereof; the committee submitted a report on 30.07.2013; based on the report, the Board of VUDA has resolved to initiate necessary proceedings for cancellation of such illegal allotments of alternate sites and issued show cause notice dated 23.09.2013 to the petitioners calling upon them to show cause as to why plots allotted in their favour should not be cancelled; Government has clarified that there is no policy of the Government for allotment of lands to the effected persons except issuance of TDRs. or set back relaxations or payment of compensation amounts.

Heard the learned counsel for the petitioners and the learned Standing Counsel for Visakhapatnam Urban

Development Authority appearing on behalf of the 2nd respondent and perused the material placed on record.

As seen from the impugned Notice dated 23.09.2013 issued by the 2nd respondent, the main grounds for cancellation are that there is no policy of the Government to give developed plots to private persons on acquiring their lands.

The learned counsel for the petitioners submits that the petitioners are agreeable to accept compensation and that the writ petition can be disposed of with a direction to the respondents to grant compensation. He also submits that the petitioners are agreeable to execute sale deeds in favour of the 2nd respondent if they are paid compensation for their lands.

In view of the above submissions, the 2nd respondent is directed to consider the cases of the petitioners for grant of compensation, pass appropriate orders and take action in accordance with law.

With the above observations, the writ petition is disposed of. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

KONGARA VIJAYA LAKSHMI, J

03.12.2018
bcj