

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.27955 of 2018

ORDER:

Heard learned Counsel for the petitioner and the learned Government Pleader for Revenue and the learned Government Pleader for Irrigation.

2. A tender notification bearing No.HMDA/DEV/CE/08/03/2018-19, dated 23.07.2018, issued by the 2nd respondent-HMDA for “formation of Peripheral Bund and Embankment with desilted soil from lake bed area for Turkayamjal Cheruvu, Abdullapurmet (M)” is under challenge in the present Writ Petition.

3. According to the petitioner, she purchased the land admeasuring 300 Sq.Yds., or 250.83 Sq.Mtrs., bearing Plot No.36 in Sy.No.35 of Turkayamjal village, Abduyylapurmet Mandal, Ranga Reddy District, by way of a registered sale deed bearing document No.3965/2015, dated 29.07.2015. The petitioner made an application under Land Regularization Scheme on 10.12.2015 and the 2nd respondent-HMDA rejected the same on 14.05.2018 on the ground that the said plot falls under water body and buffer zone, as per Master Plan of HADA.

4. According to the petitioner, approximately 30 years ago, a survey was conducted and boundaries were fixed for Masab Tank in Sy.No.137 and total water body in Sy.No.137 comprises of Ac.320.20 gts.

5. The grievance of the petitioner, in the present Writ Petition, is that a survey was conducted by M/s.Arvee Associates and they did not adopt the standard operating procedure and the demarcation of FTL was undertaken and that as a result of the said erroneous demarcation of FTL, the land of the petitioner situated in Sy.No.35

along with other Sy.Nos.58, 59, 60, 61, 62, 138 and 140 situated in and around Masab Tank have been included in the FTL and as a result of which, the petitioner's land has been rendered incapable of any use.

6. According to the petitioner, she purchased the said plot after verifying the title of her transferors as well as the entries in the revenue records. The Deputy Executive Engineer, I&CADD, pursuant to a representation, dated 23.03.2017, of M/s.Aditya Nagar Colony Welfare Association, in which the petitioner is an Executive Member, addressed Lr.No.DEE/IB/IBPM/2015-17/FTL/208, dated 14.06.2017, to the Executive Engineer, I&CADD, and the same reads as follows:

GOVERNMENT OF TELANGANA
IRRIGATION AND CAD DEPARTMENT

From:	To
Sri R.Parameshwar, BE	The Executive Engineer,
Dy.Executive Engineer,	Irrigation and CADD,
I&CADD, I.B.Sub Division,	I.B.Division,
Ibrahimpattanam.	Hyderabad.

Lr.No.DEE/IB/IBPM/2016-17/FTL/208, dt.14.06.2017

Sir,

Sub: Fixing of FTL Stones in Masab Cheruvu,
Turkyamjal village, Hayathnagar/
Abdullapurmet Mandal in R.R.District –
Request for rectification of FTL Stones at
Adityanagar Colony – Reg.

Ref: 1) Representation of Adityanagar Welfare
Association vide letter dated 23.03.2017
addressed to the SE/IC/RR endorsed to this
Office EE vide Lr.No.DB/HD/D1/3247,
DATED 27.03.2017.

The President, Adityanagar Welfare Association was represented vide his letter dated 23.03.2017 under reference cited. The FTL Stones are fixed in Masab Cheruvu, Turkyamzal village, Abdullapurmet Mandal not equal level varying from one stone the another one and above FTL.

As such the FTL fly levels are taken in presence of the Executive Engineer, Dy.Executive Engineer and

Asst.Engineer on 04.06.2017 from top of weir level as +521.48 and noticed that the FTL Stones at Adityanagar Colony pillar Nos.A-79, A-80, A-98, A-102, A-106 and A-120 to A-140 are fixed above FTL varying from 0.3 mtrs to 0.6 mtrs and even pillar at Kurmaguda A-148 is 1.20 mtrs., above FTL. This is for favour of information and request arrange to re-fix the FTL Stones along with other stones fixed at Colony as desired by the Association President.

Yours faithfully,
Sd/-
Dy.Executive Engineer,
I&CAD, I.B.Sub Division,
Ibrahimpattanam.

7. In pursuance of the above said letter, dated 14.06.2017, the Executive Engineer, I& CADD, I.B.Division, Hyderabad, addressed a letter bearing No.EE/IB/HYD/DB/HD/D1/2017-18/825, dated 24.06.2017, to the Executive Engineer, HMDA, which reads as under:-

GOVERNMENT OF TELANGANA
IRRIGATION AND CAD DEPARTMENT

From:	To
Sri S.Bheem Prasad, B.Tech.	The Executive Engineer,
Executive Engineer, I&CADD,	HMDA,
I.B.Sub Division,	Lakes & Parks Division,
Ibrahimpattanam.	Block-B, HMDA Complex,
	Taranaka, Hyderabad-07.

Lr.No.EE/IB/Hyderabad/DB/HD/D1/2017-18/825,

dt.24.06.2017

Sir,

Sub: MI – I&CADD – R.R.District – Fixing of FTL Stones in Masab Cheruvu, Turkayamjal village, Hayathnagar/Abdullapurmet Mandal – Request for rectification of FTL Stones at Adityanagar Colony – Re-Survey – Fix the Correct FTL Pillars – Requested - Reg.

Ref: 1) Application of M/s.Adityanagar Welfare Association letter dated 23.03.2017 addressed to the SE/IC/RR District and copy to this Office.
2) DEE/IB/SD/IBPM/2016-17FTL/208, Dated 14.06.2017.

It is to inform that the Masab Cheruvu, Turkayamjal village, Hayathnagar/Abdullapurmet Mandal, Ranga Reddy District, Full Tank Level survey was completed by the M/s.Aarvee associates and notified by the HMDA. The FTL Pillars are fixed by the concerned authorities as per Survey.

In this regard, M/s.Aditya Nagar Colony Welfare Association of Turkayamjal village are objected and requested to conduct the re-survey of Full Tank Level of Masab Tank and stated 30 years back Full Tank Level Survey conducted and boundaries are fixed around Sy.No.137 and entire submergence of land is around Ac.320.20 gts., and it is Government land. Recently, once again, survey has been done and boundaries are fixed in Sy.No.35, 58, 59, 60, 61, 62, 138, 139 and 140 around Masab Tank, Turkayamjal village, it is not proper. The Full Tank Level contour levels must be same levels (Submergence Levels) in all marked points. But the marked levels are 2 to 5 difference above the FTL Level from one point to another.

In this regard, Undersigned has conducted Full Tank Level Survey along with Deputy Executive Engineer, IB Sub Division, Ibrahimpatnam and concerned Section Officer on 04.06.2017 it is observed that from top of weir level as +521.48 and noticed that the Full Tank Level Stones at Adityanagar Colony pillar Nos. A-79, A-80, A-98, A-102, A-106 and A-120 to A-140 are fixed above the Full Tank Level it is varying from 0.3 metres to 0.6 metres and even pillar at Kurmaguda A-148 is 1.20 metres above Full Tank Level.

In view of the above, the Executive Engineer, HMDA, Lakes & Parks Division, Taranaka, Hyderabad, is requested to take top priority to conduct re-survey and fixing of FTL Pillars with M/s.Aarvee Associates for avoid further complications. This is treated as most immediate.

Yours faithfully,

Sd/-

Executive Engineer,
I&CADD, I.B.Sub Division,
Hyderabad.

8. Thereafter, the Executive Engineer, Lakes & Parks Division, HMDA, vide letter No.1690/HMDA/Dev./E.E.(L&P)/2017, dated 28.06.2017, requested the Executive Engineer, I & CADD, to inform the convenient date for conducting the joint inspection along with the Consultants, MN/s.Aarvee Associates.

9. Thereafter, on the application made by the petitioner for No Objection Certificate for Plot No.36 in Sy.No.35, the Dy.Executive Engineer, IB Sub-Division, Ibrahimpatnam, addressed letter No.Dy.EE/IBSD/IBPM/Abdullapurmet Section/2018/171, dated 05.05.2018, to the Tahasildar, Abdulapurmet Mandal, R.R.District, requesting to give a convenient date for conducting a Joint Inspection of plot No.36 in Sy.No.35, situated at Turkayamjal village, Abdullapurmet Mandal, R.R.District, for taking further action. The

Tahasildar, Abdullapurmet Mandal, vide Memo No/C/1322/2018, dated 28.05.2018, directed the Mandal Surveyor to give a date of conducting joint inspection of the land. The HMDA, vide letter No.HMDAL005138/LRS/GTK/Plg/ HMDA/2015-16, dated 14.05.2018, rejected the LRS application of the petitioner on the ground that the petitioner's land falls under water body and buffer zone (as per the Master Plan, HADA), as per G.O.Ms.No.151, dated 02.11.2015. Subsequently, a tender notification, dated 23.07.2018, which is impugned in the present Writ Petition, came to be issued by the HMDA.

10. According to the learned Government Pleader, a survey was undertaken on 04.06.2017 and as such the impugned action cannot be faulted.

11. In view of the elaborate correspondence, which took place between the parties, as mentioned supra, and in order to have a quietus for the issue, this Court deems it appropriate to dispose of the Writ Petition, with a direction to the respondents herein to undertake a Joint Survey by involving all the Departments and respondent No.8 also, and thereafter the respondents herein to take further action, or, to pass Orders. Till then, the finalization of the impugned tender notification shall be deferred.

Miscellaneous Petitions pending consideration, if any, in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE A.V.SESHA SAI

Date :01.10.2018
Smr