

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION NO.12384 of 2008

ORDER:

This writ petition is filed to declare the inaction of the respondents in preventing the encroachments in the park and water body area reserved as open space in the final layout No.871/MP2/Plg/HUDA/2004 dated 21.12.2005 known as Lahari Homes in the land forming part of Sy.Nos.165, 166 and 167 of Kondapur village, Serilingampally Mandal, Ranga Reddy District as illegal and arbitrary.

The case of the petitioner is that the petitioner is a resident of Lahari Homes colony developed by the 4th respondent in the land forming part of Sy.Nos.165, 166 and 167 of Kondapur; the president of the 1st petitioner Association; Lahari Homes, developed the land belonging to eight persons in Sy.No.165 part, 166 and 167 part; the 4th respondent/Hyderabad Urban Development Authority through letter dated 8.4.2004 granted tentative layout; final layout was issued on 21.12.2005 in Permit No.20/04; in the layout road area and park area including water body is earmarked as an open space; in the final layout, it has been specifically mentioned that the Commissioner, Serilingampally Municipality now merged with Greater Hyderabad Municipal Corporation has taken over the open space and roads in the layout through letter dated 15.12.2005; on 12.6.2008, about 10 workers claiming to be the persons sent by the developer started digging within the park area for construction; there is an existing compound wall around the park, water body i.e. layout open space; on 13.6.2008, part of northern side park compound wall was

removed by unknown persons and the park area in the approved layout is under the control of the respondents 1 to 3 for maintaining as Lahari Homes layout.

Lahari Homes represented by Managing partner is impleaded in the writ petition as Respondent No.5 pursuant to the orders in Writ Appeal No.783 of 2008 dated 31.7.2008.

Counter affidavit has been filed by Hyderabad Urban Development Authority/4th respondent stating that while sanctioning final layout, a condition was imposed stating that the local authority has to ensure that the open space shall be maintained by the local authority and that the 4th respondent has approved the layout by earmarking open spaces, park and water bodies in the layout; no construction activity is permitted in the areas earmarked for open spaces i.e. parks and water bodies etc.; the Hyderabad Urban Development Authority has delegated the development and control powers to the Greater Hyderabad Municipal Corporation in terms of Section 56 of the Andhra Pradesh Urban Areas (Development) Act, 1975 and the Greater Hyderabad Municipal Corporation has to take necessary action, if any illegal constructions are made.

When the writ petition came up for hearing, on 23.6.2008, learned counsel appearing for respondents 1 to 3 submitted that necessary steps are taken for stopping construction and on 29.4.2010, this Court directed the 5th respondent not to make any construction over the park area i.e. mentioned in the sanction plan viz. 2131 sq.yards.

No counter affidavit has been filed by the 5th respondent.

Heard the learned counsel for the petitioner and learned Standing Counsel for Respondents 1 to 3.

A perusal of the proceedings sheet shows that on 23.6.2008, learned Standing Counsel, who appeared for respondents 1 to 3 submitted that necessary steps have been taken to stop the unauthorised construction. On 29.4.2010, while admitting the writ petition, this Court directed the 5th respondent not to make any construction over the park area. In spite of the said order, no counter affidavit has been filed by the 5th respondent seeking vacation of the order dated 29.4.2010.

As per the layout plan filed by the petitioner, the open spaces earmarked in the final layout dt.21.12.2005 have to be maintained and as there is already a direction to the 5th respondent not to make any construction over the said land, the 5th respondent shall not make any construction over the park area that is mentioned in the sanctioned plan i.e. 2131 sq.yards. The respondents 1 to 3 shall also ensure that no construction activity goes on in the open space earmarked in the final layout dated 21.12.2005.

With the above directions, the Writ Petition is disposed of. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date: 28/11/2018

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