

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

**WRIT PETITIONS No. 1012, 1024, 1080, 1084, 1086, 1089, 1095,
1112, 1120, 1121, 1138, 1158, 1160, 1167 AND 1245 of 2019**

COMMON ORDER :

All these Writ Petitions are filed alleging that the respondent authorities are trying to demolish / dispossess the petitioners from their respective plots forming part of Survey No. 184, Annamaiah Colony Phase-II, Nagaram Village, Keesara Mandal, Medchal-Malkajgiri District without following due process.

At the time of admission of the Writ Petitions, this Court made an order dated 14.02.2019 in I.A. No. 1 of 2019, which reads as under:

“A counter-affidavit has been filed on behalf of the 2nd respondent by the Director Planning-II, wherein it is stated that the plot over which the petitioner/s is claiming right is based on the agreement of sale - cum - General Power of Attorney / sale deed. It is also stated that there is no Application made by the petitioners or the persons alleged to have executed the agreement - cum - GPA /sale deed. Neither the petitioner / s nor their vendors had made an Application seeking regularization of the lay out or the plots in the lay out. It is further stated that as per Keesara Zone Segment HUDA, 2021, the site is falling in conservation use zone in which residential buildings are not permissible as per zoning regulations in terms of G.O.Ms.No. 288, dated 03.04.2008. Though the learned counsel for the petitioners asserts that permission was granted by the 3rd respondent, who was delegated with such power, the very granting of permission would become illegal, as, such power is to be exercised within the permissible sphere but not in violation of the zoning regulations. In those circumstances, the matter requires detailed consideration.

However, pending disposal of the Writ Petitions, the petitioners shall not make any construction in the subject property, based on the alleged permission granted by the gram Panchayat in 2016.

This Court also takes judicial notice of the fact that the material papers filed along with the Writ Petitions disclose that the permission granted by the gram Panchayat expires by 31.03.2019. The respondents shall therefore, maintain *status quo* and ensure no

constructions are made by the petitioners or anyone in violation of the regulations till the disposal of the Writ Petitions.

Learned Standing Counsel for HMDA shall also file an additional affidavit whether the lay out which is filed by the petitioners was granted by the gram panchayat in terms of the norms notified by the Town and Country Planning Department, duly causing verification of the layout plan.”

Counter-affidavit was filed by the 2nd respondent. It has been stated therein that in respect of the gram panchayats falling in the then HMDA, jurisdiction development control powers were delegated to those gram panchayats *vide* Lr.No. 15048/HMDA/2008, dated 17.01.2009, according to which, the gram panchayat is empowered to grant only residential building permissions for ground + two floors in an approved lay out by HUDA subject to condition that the height of the building shall not exceed 10 m. and the plot area shall be below 1000 sq. meters provided the same are in conformity with the statutory Master Plan / Zonal Development Plan and Zoning Regulations / Building Regulations. It is further stated that the subject site was inspected and it was observed that construction of building was not commenced in the said plots which fall in an unapproved layout area and not regularised under LRS Scheme. It is also stated that as per Keesara Zone segment HUDA 2021, the site is falling in conservation zone in which residential buildings are not permissible as per zoning regulations issued in G.O.Ms.No. 288, dated 03.04.2008.

Learned Standing Counsel for the 3rd respondent submits that the subject Nagaram Gram Panchayat has been upgraded to Municipality, hence, the gram panchayat has no power to grant any permission.

Learned counsel for the petitioners seeks permission to withdraw the Writ Petitions.

While it would be open for the petitioners to withdraw the Writ Petitions, the respondent authorities shall necessarily ensure that no constructions are made in the subject land and no permission is granted to make construction as it is their specific stand that the subject land is falling under 'conservation zone'. Since it is stated that the gram panchayat was upgraded as municipality, the 2nd respondent shall ensure necessary communication is issued to the Municipality concerned as it is the municipal authorities, who are required to grant construction permission.

The Writ Petitions are accordingly, dismissed as withdrawn, however, subject to the above said observation, the 2nd respondent shall ensure no constructions are made in the 'conservation zone' and further necessary instructions be issued to Nagaram Municipality with respect to the lands specifically falling within the 'conservation zone'. No costs.

The miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

21st October 2019

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