

THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION Nos.14199 and 18223 of 2020

COMMON ORDER:

The writ petitions are filed aggrieved by the action of the respondents in not providing access to the respective plots of the petitioners. WP.No.14199 of 2020 is filed in respect of plot admeasuring 285 sq. meters in Sy.No.129/82, T.S.No.2-Part, Block-E, Ward No.10, situated at Road No.14, Banjara Hills, Shaikpet Village & Mandal, Hyderabad (hereinafter referred to as schedule A property). WP.No.18223 of 2020 is filed in respect of plot admeasuring 256 sq. meters in Sy.No.129/82, T.S.No.2-Part, Block-E, Ward No.10, situated at Road No.14, Banjara Hills, Shaikpet Village and Mandal, Hyderabad district (hereinafter referred to as schedule B property).

2. The facts of the case in WP.No.14199 of 2020 are as under:

Petitioner purchased an extent of 535 sq. meters under registered sale deed bearing document No.2274 of 1990 dated 12.06.1990. As there was dispute regarding title with the Government, the petitioner submitted an application for the entire property as per G.O.Ms.No.455, Revenue (UC-I) Department dated 29.07.2002 for regularization (G.O.Ms.No.455) and allotment of ceiling surplus land. Upon examining the application of the petitioner, G.O.Ms.No.615 Revenue (UC-II) Department dated

07.05.2005 was issued regularizing an extent of 285 sq. meters as against 535 sq. meters of land purchased by the by the petitioner under the above referred sale deed. For an extent of 250 sq. meters regularization application was rejected on the ground that it is a Government land and possession of the said land appears to have been taken over by the Government. The grievance of the petitioner is that the petitioner has access only through the Government land (250 sq. meters) (schedule A Property) and the land, which was regularized (285 sq. meters) became land-locked and inaccessible without any approach road. The petitioner addressed numerous representations to the respondents for providing approach road of at least 20 feet width to enable access to schedule A property.

3. The facts in WP.No.18823 of 2020 are as under:

The petitioner purchased an extent of 393 sq. meters of land under registered sale deed bearing document No.1308 of 1990 dated 15.07.1990 situated at Road No.14, Banjara Hills (schedule B property). On coming to know that the said land was declared as ceiling surplus land, the petitioner submitted that application for regularization under G.O.Ms.No.455. An extent of 256 sq. meters was only considered for regularization and proceedings in G.O.Ms.No.615 Revenue (UC-II) Department dated 07.05.2005 was issued. For remaining extent of 137 sq. meters regularization was

rejected treating it as Government land. Similar to the grievance of the petitioner in WP.No.14199 of 2020, the petitioner herein also contended that there was access only to the schedule B property from the Government land, which was taken over by the respondents, after regularization application was rejected.

4. Counter affidavit was filed by the District Collector, respondent No.3, stating that the plots of the petitioners i.e. 535 sq. Meters and 393 sq. Meters are partly Government land and partly surplus land. On the application submitted by both the petitioners, only part of the land, which was surplus land, was regularized and application for remaining land, which is Government land, was rejected. The petitioners do not have any right to seek relief for providing access, which, admittedly, belonged to the Government. On the representation of the petitioners, field inspection was conducted by the Joint Collector and factual report vide Lr.No.E6/I2/11386/2008 dated 11.08.2017 was submitted to the Chief Commissioner of Land Administration (CCLA), Hyderabad, to examine the matter for allotment of Government land to an extent of 48 sq. meters in favour of the petitioners for easementary rights on payment of prevailing market value at Rs.1,00,000/- per sq. yard. CCLA vide letter dated 31.08.2018 requested the District Collector, Hyderabad, to send alienation proposal as per G.O.Ms.No.571 dated 14.09.2012.

5. It is stated that the case of the petitioners does not fall under any of the categories mentioned in G.O.Ms.No.571 dated 14.09.2012. The land, which the petitioners have sought regularization, forms part of 714 sq. meters and it is a vacant on ground. The said land is in right scalene triangle shape. Out of 714 sq. meters, the Government allotted an extent of 711 sq. meters in favour of Smt. B. Santoshi W/o. Late Col. B. Santosh Babu, who died on 15.06.2020 at Indo-China border and possession was handed over under the cover of panchanama on 22.07.2020. Since then the said allottee has been in possession.

6. On examining the sketch plan (at page 7), filed along with the counter affidavit, this Court enquired Mr. G. Harender Prasad, learned Special Government Pleader, whether plot No.2 (48 sq. meters) and plot No.3 (161 sq. meters) can be allotted to the petitioners, it was informed that it is not feasible to allot 48 sq. meters as it would affect Smt. Santoshi. On further hearing of the matters, this Court enquired with the learned counsel appearing in both the writ petitions and requested them to convince the parties if they can have a common access road if provided through the sub-road connecting from plot No.3 for both schedule A and B plots.

7. A Memorandum of Understanding dated 15.03.2022 entered into between the petitioners in both the writ petitions has been filed

along with additional affidavit of the petitioner in WP.No.14199 of 2020. Under the MOU, the petitioners in both the writ petitions agreed that common access road can be used by the parties.

8. As seen from the sketch plan, the triangular shaped portion (plot No.3) admeasuring 161 sq. meters will not be of any use for the Government either for constructing a building or public utility like park. For the sake of convenience, plot No.3 as delineated in the sketch plan is divided into plot No.3A (proposed access road for schedule A and B properties) and plot No.3B (remaining extent of 161 sq. meters after excluding plot No.3A). It was enquired from the learned Special Government Pleader whether it is feasible to alienate entire plot No.3 including plot No.3A to the petitioners. Learned Special Government Pleader submitted that liberty be granted to the petitioners to submit an appropriate application in that regard and the Government will act upon such application taking into consideration the difficulty faced by the petitioners. However, it is submitted that the market value of the property has been revised and the petitioners may have to pay additional market value for plot No.3B and not Rs.1,00,000/- per sq. yard, which was determined at the time of inspection in the year 2011.

9. It is not in dispute that there is no access to schedule A and schedule B properties. The only access, which could have been

provided, was either plot No.2 or plot No.3. However, as plot Nos.1 and 2 have been allotted to Smt. Santoshi, this Court is not inclined to cause any inconvenience to her. Insofar as plot No.3 is concerned, the same is not being used by the Government for any purpose and in the opinion of this Court, the same cannot be put to use even in future for any purpose, owing to its odd shape. The respondents shall forthwith allot plot No.3A to the petitioners with a minimum width of not less than 20 feet, as access to schedule A and B properties on payment of Rs.1,00,000/- (Rupees One Lakh only) per sq. yard by the petitioners. The respondents shall also consider allotment of plot No.3B in favour of the petitioners on payment of Rs.1,00,000/- per sq. yard in view of its odd shape and taking into consideration that the said plot cannot be used for any purpose as observed herein.

10. In view of the above, the writ petitions are disposed of. The terms of the Memorandum of Understanding dated 15.03.2022 and the sketch plan filed by the respondent No.3 along with counter affidavit shall be made part of the order.

Pending miscellaneous petitions, if any, shall stand closed.

There shall be no order as to costs.

B. VIJAYSEN REDDY, J

March 23, 2022
DSK