

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THURSDAY, THE TWENTY SECOND DAY OF JUNE,
TWO THOUSAND AND TWENTY THREE

: PRESENT:

**THE HON'BLE SRI JUSTICE P.NAVEEN RAO
AND
THE HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU**

IA.No. 2 of 2022
IN
IA.No. 1 of 2022
IN
AS.No. 252 of 2021

IA.No. 2 of 2022:

Between:

R.Jalhind, S/o. Late R.Chandraiah.

**Petitioner in IA.No.1 OF 2021 & IA.No.2 OF 2022
(Appellant in AS. No. 252 of 2021
on the file of High Court)**

AND

1. R.Narasimha, S/o. Late Chandraiah, Occ: Business, R/o.H.No.2-2-334, Amberpet, Hyderabad - 13.
2. R.Sudershan, S/o. Late Chandraiah, Occ: Business, R/o.H.No.2-2-644/E, Street No.15, Bagh Amberpet, Hyderabad - 13.
3. R.Prakash, S/o. Late Chandraiah, Occ: Retd. Employee, R/o.H.No.2-2-644/F, Street No.15, Bagh Amberpet, Hyderabad - 13.
4. The Land Acquisition Officer and Special Deputy Collector, HMDA, Tarnaka, Hyderabad.

**Respondents in IA.No.1 OF 2021 & IA.No.2 OF 2022
(Respondents in-do-)**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to review the order in IA.No.1/2022 in IA.No.1/2021 in AS.No.252/2021, dt.13.06.2022 and to set aside the same and to make the interim stay granted on 12.11.2021 in IA.No.1 of 2021 in AS.No.252/2021, absolute, Pending disposal of AS No. 252 of 2021, on the file of the High Court.

IA.No.1 OF 2021:

Petition under Section 151 of C.P.C. praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to grant stay of operation of decree and judgment in LAOP.No. 204/2017 dated 09-09-2021 passed by the court of III Additional District Judge, R.R.District at L.B.Nagar, pending disposal of AS.No.252 of 2021 on the file of the High Court.

IA.No. 1 of 2022:

Between:

1. R.Narasimha, S/o. Late Chandraiah.
2. R.Sudershan, S/o. Late Chandraiah.
3. R.Prakash, S/o. Late Chandraiah.

Petitioners

**(Respondents 1 to 3 in AS.No. 252/2021
on the file of the High Court)**

AND

1. R.Jaihind, S/o. Late R.Chandraiah. Occ: Retd. Government Employee, R/o. H.No.2-2-644/F, Opp. Government Dispensary, Bagh Amberpet, Hyderabad.
2. The Land Acquisition Officer and Special Deputy Collector, HMDA, Tarnaka, Hyderabad.

Respondents

(Appellant & Respondent No.4 in-do-)

Petition under Section 151 of CPC praying that in the circumstances stated in the counter affidavit filed herein, the High Court may be pleased to vacate interim order dated. 12-11-2021 passed in IA.No. 1 of 2021 in AS.No. 252 of 2021 and dismiss the Appeal in the interest of justice.

These Petitions coming on for hearing, upon perusing the affidavit and counter affidavit filed in support of the petitions filed herein, and the order of the High Court dated. 12-11-2021 made in IA.No. 1/2021 & dated. 13-06-2022 made in IA.No. 1/2022 and upon hearing the arguments of Smt. Vedula Chitralekha, Advocate for the Petitioner in IA.No. 1/2021 & IA.No. 2/2022 and the Respondent No.1 in IA.No. 1/2022 and of Sri M.A.K.Mukheed, Advocate for the Respondents 1 to 3 in IA.No. 1/2021 & IA.No. 2/2022 and the Petitioners in IA.No. 1/2022, the Court made the following

ORDER:

Heard both the parties.

Stating that in the order dated 13.06.2022 in I.A.No.1 of 2022, there is an error with regard to the shares of each of the brothers in the land allotted by HMDA out of 3,520 sq.yds, this review petition is filed. Para Nos.14 & 16 of the order dated 13.06.2022 read as under:

"14. When clarification was sought on this aspect, learned counsel for respondents fairly submit that as it is not possible to leave out 50 sq.yds each in their plots, instead they would offer bank guarantee on 150 sq.yds based on the prevailing market price. We are of the view that this is just and reasonable.

16. The respondents are entitled to develop three six hundred square yards of plots bearing plot numbers 1474, 1473 and 782 subject to their furnishing bank guarantee for the market value of 150 sq.yards of land. The appellant is entitled to utilize plot number 406 as deemed fit and proper. The remaining 4 plots of 200 square yards each shall be kept intact till the disposal of the appeal."

From the reading of above paragraphs, it is seen that the Court assumed each of the three brothers gets 500 sq.yds and that leads to surplus 150 sq.yds from out of 1650 sq.yds. Whereas, in 1650 sq.yds four brothers are entitled to equal share and in the said manner, each of them will get 412 sq.yds only.

Learned Senior Counsel also contends that even the mentioning of the plot numbers was erroneous as the plot numbers to individuals are allotted by the HMDA. Whereas, the Court itself has taken up the task of allotting the plots and less value plots are allotted to review petitioner.

As per the 2nd aspect of the learned Senior counsel submission, we are not in agreement with the learned Senior counsel as it does not come within the purview of grounds for review.

With reference to the 1st aspect, we see merit in what is contended by the learned Senior counsel. The total extent of land allotted to the family by the HMDA is 3,200 sq.yds. The review petitioner claims that 1550 sq.yds belongs to him by Will executed by his father. Therefore, we thought of separating this 1550 sq.yds and permit all the brothers to enjoy the remaining 1650 sq.yds in whatever manner they intend to develop. However, four plots were divided into 600 sq.yds each and 4 plots were divided into 200 sq.yards each. We kept aside four 200 sq.yds and one 600 sq.yds plots which come to total is 1400 sq.yds as against 1550 sq.yds which requires to be kept aside as per claim of review petitioner. Thus, 150 sq.yds is physically short. In addition to this, for three brothers three plots of 600 sq.yds are given. Whereas, each of them are entitled to 412 sq.yds thus 414 sq.yds is in excess of the entitlement of three brothers, subject to the adjudication of dispute in the main appeal.

In regard to this, the orders in paras 14 and 16 are modified as under:

Para 14:

"When a clarification was sought on this aspect, the learned counsel for respondents fairly submit that as it is not possible to leave out 138 sq.yds each in their plots, instead they would offer bank guarantee for 414 sq.yds based on the prevailing market price. We are of the view that this is just and reasonable."

Para 16:

"The respondents are entitled to develop three six hundred square yards of plots bearing Nos.1474, 1473 and 782 subject to their furnishing bank guarantee for the market value of 414 sq.yds of land. The appellant is entitled to utilize plot No.406 as deemed fit and proper. The remaining 4 plots of 200 sq.yds each shall be kept intact till disposal of the appeal."

Accordingly, the review petition is disposed of.

**SD/ N. SRIHARI
ASSISTANT REGISTRAR**



// TRUE COPY //

SECTION OFFICER

To

1. The III Additional District Judge, R.R.District at L.B.Nagar
2. One CC to Sri M.A.K.Mukheed, Advocate(OPUC)
3. One CC to Smt. Vedula Chitralekha, Advocate(OPUC)
4. Two spare copies.

HIGH COURT

PNRJ & SSRNJ

DATED: 22-06-2023

ORDER

**IA.NO. 2 OF 2022
IN
IA.NO. 1 OF 2022
IN
AS.NO. 252 OF 2021**



IA DISPOSED