

THE HONOURABLE SRI JUSTICE D.RAMESH

WRIT PETITION No.1752 of 2023

ORDER:

This Writ Petition under Article 226 of the Constitution of India is filed seeking to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings dated 22.09.2022 issued by the 3rd respondent whereunder rejected the building plan application dated 10.09.2022 submitted by the petitioner to construct the building in his plot Nos.16 and 17(part) to an extent of 133.33 square yards in Sy.No.52/2B in layout IPLP.No.2020/DTCP-RUDA/BOMM/000041, Sy.No.52/2B of Bommuru Gram Panchayat, Rajamahendra varam Rural Mandal, East Godavari District as illegal and arbitrary.

Heard the learned counsel for the petitioner, learned Government Pleader for Panchayat Raj and Rural Development as well as Sri N.Srihari, learned Standing Counsel appearing for the 3rd respondent-Gram Panchayat.

The case of the petitioner is that he is the absolute owner and possessor of the house site to an extent of 133.33 square yards in parts of Plot Nos.16 and 17, Sy.No.52/2B, Bommuru Gram Panchayat, Rajamahendravaram Rural Mandal, East Godavari District having purchased the same under the registered sale deed dated 18.08.2022. He purchased the said plot in layout IPLP No.2020/DTCP-RUDA/BOMM/000041 which was approved by the Rajamahendravaram Urban Development Authority(RUDA). The petitioner with a view to construct the building in the said plot, has made an application dated 10.09.2022 to the 3rd respondent along with all requisite documents and paid the fee for grant of permission. The 3rd respondent vide order dated 22.09.2022 rejected the application of the petitioner on the ground that the roads and open space left in the approved layout was not handed over to the Gram Panchayat. Aggrieved by the same, the present Writ Petition is filed.

The learned counsel for the petitioner submitted that the endorsement issued by the 3rd respondent on

22.09.2022 is contrary to the record. He further submits that as the petitioner is a bonafide purchaser his application cannot be rejected.

Learned Standing Counsel appearing on behalf of Respondent No.3 relied on Rule 7 of the A.P.Gram Panchayat Land Development Rules, 1994, which reads as follows:-

“(7) All the roads and open spaces such as parks and playgrounds earmarked in accordance with these rules in a layout, which is approved by the Gram Panchayat shall automatically stand transferred free of cost and vest with the Gram Panchayat free from all encumbrances. After such vesting, the Gram Panchayat shall maintain all such open spaces for the purpose for which they have been earmarked ”.

In view of the above said provision, though the petitioner has not handed over the open space area to the Gram Panchayat, by virtue of Rule 7 it is deemed plot. In view of the same, the respondents can reject the application made by the persons, who purchased the plots in open area as per the layout plan.

Considering the submissions of both the counsels and on perusal of the contends of the impugned endorsement dated 22.09.2022 issued by the 3rd respondent, this Writ Petition is disposed of setting aside the impugned Endorsement dated 22.09.2022 while directing the 3rd respondent to consider the application made by the petitioner, if it is not covered in the open area earmarked as per the approved layout. No costs.

Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE D.RAMESH

Date : 31.01.2023

NOTE: Issue C.C by 06.02.2023.

B/o.

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