

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

**HON'BLE Mr. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE
&**

HON'BLE Mr. JUSTICE RAVI NATH TILHARI

I.A.Nos.1 & 2 of 2023 in W.P.No.8331 of 2023

I.A.No.1 of 2023 in W.P.No.8347 of 2023

I.A.No.1 of 2023 in W.P.No.8348 of 2023

I.A.Nos.1 & 2 of 2023 in W.P.No.8374 of 2023

I.A.Nos.1 & 2 of 2023 in W.P.No.8620 of 2023

I.A.Nos.1, 2 & 3 of 2023 in W.P.No.8884 of 2023

I.A.Nos.1, 2 & 3 of 2023 in W.P.No.9507 of 2023

and

I.A.Nos.1, 2 & 3 of 2023 in W.P.No.10102 of 2023

COMMON ORDER

Dt.05.05.2023

(Prashant Kumar Mishra, CJ)

This order shall govern disposal of I.As., seeking interim relief in this batch of writ petitions.

2. W.P.No.8331 of 2023, which is taken as the lead case in the batch, has called in question the validity of G.O.Ms.No.45 Municipal Administration and Urban Development (CRDA.2) Department dated 31.03.2023, as being arbitrary, illegal and ultra vires of the Andhra Pradesh Capital Region Development Authority Act, 2014 ("the CRDA Act", for brevity).

3. Challenge is also made to the Gazette Notification No.337 Municipal Administration & Urban Development Department (APCRDA)

dated 21.03.2023, regarding modifications made to the detailed Master Plan of Capital City – Amaravati, notified vide Gazette Notification No.18 dated 23.02.2016.

4. By G.O.Ms.No.45 dated 31.03.2023, the Government, in pursuance of Regulation No.6.5.3 of Amaravati Land Allotment Regulations, 2017 ("the 2017 Regulations", for brevity) issued vide G.O.Ms.No.229, MA&UD (CRDA.2) Department dated 15.06.2017, accorded permission to the Commissioner, APCRDA to (i) place the matter before the authority for revising the reserve price for providing house-sites to the beneficiaries of Economically Weaker Sections (EWS) as requested by the Revenue Department and (ii) to handover the said lands to an extent of Ac.550.65 cents and Ac.583.93 cents, totalling Ac.1134.58 cents, to the District Collectors of Guntur and NTR Districts respectively pending finalization of the Reserve Price and receipt of the payment, as requested by the Revenue Department.

5. In I.A.No.1 of 2023 in W.P.No.8331 of 2023, I.A.No.1 of 2023 in W.P.No.8347 of 2023, I.A.No.1 of 2023 in W.P.No.8348 of 2021, I.A.No.2 of 2023 in W.P.No.8374 of 2023, I.A.No.1 of 2023 in W.P.No.8620 of 2023, I.A.No.2 of 2023 in W.P.No.8884 of 2023, I.A.No.2 of 2023 in W.P.No.9507 of 2023 and I.A.No.1 of 2023 in

W.P.No.10102 of 2023, prayer is made to suspend the operation of G.O.Ms.No.45 dated 31.03.2023.

6. In I.A.No.1 of 2023 in W.P.No.8884 of 2023, I.A.No.1 of 2023 in W.P.No.9507 of 2023 and I.A.No.2 of 2023 in W.P.No.10102 of 2023, prayer is made to suspend the Gazette Notification No.337 dated 21.03.2023.

7. In I.A.No.2 of 2023 in W.P.No.8331 of 2023, I.A.No.2 of 2023 in W.P.No.8374 of 2023, I.A.No.2 of 2023 in W.P.No.8620 of 2023, I.A.No.3 of 2023 in W.P.No.8884 of 2023, I.A.No.3 of 2023 in W.P.No.9507 of 2023, prayer is made to direct the respondents not to allot any house-sites to the EWS in the Capital City area until infrastructure is developed in accordance with Land Pooling Scheme. In I.A.No.3 of 2023 in W.P.No.10102 of 2023, prayer is made to direct the respondents not to alienate the lands surrendered under the Land Pooling Scheme.

8. Mr. Devadatt Kamat, learned senior counsel assisted by Mr. Sai Sanjay Suraneni, learned counsel; Mr. V.S.R. Anjaneyulu, learned senior counsel assisted by Mr. Karumanchi Indraneel Babu, learned counsel; Ms. Jyothi Ratna Anumolu and Ms. S. Pranathi, learned counsel appearing for the petitioners in the respective

petitions, would submit that the respondents have sought to disturb the prevailing status quo in an attempt to outreach the binding judgment of the Full Bench of this Court dated 03.03.2022 passed in W.P.Nos.13203 of 2020 and batch - *Amaravathi Parirakshna Samithi of A.P. and Others v. The State of Andhra Pradesh and others* (hereinafter referred as "the Full Bench judgment"). They would refer to paragraphs 222 to 232 of the said judgment, which emphasized the importance of the promises made by the State in the Master Plan, holding that development of the nine (9) cities including the electronic city is a statutory promise, which cannot be denied by the State. They would submit that G.O.Ms.No.45 dated 31.03.2023 has allowed handing over Ac.1134.58 cents of land to the District Collectors of Guntur and NTR Districts out of the area earmarked for development of electronic city, without realizing that this would affect the very heart and soul of the capital area development. Referring to direction No.2 issued in the Full Bench judgment, it is argued that the State and APCRDA have been directed not to alienate/mortgage or create any third party interest on the land pooled, except for the construction of capital city or development of capital region, which has not been stayed by the Hon'ble Supreme Court in its order dated 28.11.2022 passed in S.L.P. (Civil) Diary No.24371/2022. Therefore, the impugned

G.O., violates the mandamus or the continuous mandamus issued by this Court. It is argued that allotment of the aforesaid extent of land to private persons which is earmarked for development of electronic city is, ex facie, in the teeth of the continuous mandamus; as such, the impugned G.O. deserves to be set aside. It is further argued that if the impugned notification and G.O. are given effect, almost 1/3rd of the electronic city will be shelved, violating the concept of nine (9) cities including the electronic city, which is a core feature of the Amaravati Master Plan. It is vehemently put forth that the issue is ultimately to be taken up by the Hon'ble Supreme Court and the State should not demonstrate such urgency to create third party interest.

9. It is further argued by the learned senior counsel for the petitioners that vide interim order dated 23.03.2020 in W.P. (PIL) No.42 of 2020 and W.P.No.5140 of 2020, this Court had observed that there is no imminent urgency since the land continues to be available and except the intention to fulfil the promise in the election manifesto, there is no urgency in the matter. Thus, finding balance of convenience in favour of the petitioners, earlier G.O.Ms.No.107 MA & UD (CRDA) Department dated 25.02.2020 and G.O.Ms.No.44 dated 12.02.2020 were stayed and eventually those G.Os., were quashed. It is next argued that the State has not handed over the 5000 housing

units that they had developed over the last four years, to the already identified beneficiaries; therefore, there shall be no urgency for the present allotment. If the respondents are allowed to allot house-sites as proposed in the impugned G.O., it will permanently alter the character of the land pooled by the petitioners and will create an irreversible situation, defeating the Full Bench judgment.

10. Per contra, Mr. P. Sudhakara Reddy, learned Additional Advocate General appearing for the State and Mr. Kasa Jagan Mohan Reddy, learned standing counsel for APCRDA, would submit that in the detailed Master Plan of Capital City – Amaravati, prepared earlier, no zone for EWS was created despite there being statutory mandate under Section 53(1)(d) of the APRCDA Act read with Form – 9.3 and Form – 9.4 of the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 (“the LPS Rules”, for brevity). Therefore, the State amended the Master Plan to create R-5 Zone reserving land for allotment to EWS and in furtherance thereof, G.O. has been issued in compliance of the statutory duties obligated to the State under the APCRDA Act and the Rules and Regulations framed thereunder. According to the learned Additional Advocate General, direction Nos.1 and 2 of the Full Bench judgment clearly permit the Government to proceed with construction of capital city or development

of capital region. Therefore, it is the duty of the State Government to give effect to the continuous mandamus issued by the Full Bench, which has not been stayed by the Hon'ble Supreme Court. He would submit that while quashing G.O.Ms.No.107 dated 25.02.2020, the Full Bench observed that amendments in the Master Plan were initiated without there being any proposal from the local authority; however, since after the amendment in the Act, the State Government has also been authorized to amend the Master Plan *suo motu*. Thus, the very basis of the judgment quashing G.O.Ms.No.107 dated 25.02.2020, has been effaced and presently there is no statutory bar for modifications of the Master Plan and issuance of G.O.Ms.No.45 dated 31.03.2023. He would submit that balance of convenience lies in allowing the State to allot lands to the members of economically weaker sections and those living below poverty line; therefore, there is absolutely no ground for staying the operation of the impugned G.O. In respect of allotment of 5000 housing units developed over the last four years, learned Additional Advocate General would submit that the said allotment was for persons who are having income less than Rs.3 lakh per annum, on subsidy, with Central and State assistance. Nevertheless, despite that, each person has to pay Rs.1.5 lakh or more depending upon the size of the plot for availing benefit of the scheme. However, in the case on

hand, allotment would be absolutely free of cost to the persons living below poverty line. Therefore, earlier allotment of 5000 housing units has got no bearing on the subject allotment of house-sites. He would submit that allotment of lands to the poor should not be stayed, more so, when the said action of the Government is in furtherance of its Constitutional duty for providing shelter to the deprived class of citizenry, as held by the Hon'ble Supreme Court in ***Ashwani Kumar v. Union of India and others – (2019) 2 SCC 636.***

11. The main plank of arguments raised by the writ petitioners revolves around the mandamus issued by this Court in direction No.2 in the Full Bench judgment and the fact that the Hon'ble Supreme Court has not stayed the said direction and the matter is pending before the Hon'ble Supreme Court.

12. On the other hand, learned Additional Advocate General also argues that the State has issued the impugned G.O. in compliance of the said mandamus issued by this Court in the Full Bench judgment. He would submit that this Court specifically permitted construction of capital city or development of capital region as one of the activities and the same having not been stayed by the Hon'ble Supreme Court, it is the duty of the State to develop the capital city by providing house-sites to the poor.

13. It seems, in the earlier Master Plan, no specific area was reserved for allotment of house-sites to EWS. It is informed to this Court that the area earmarked for electronic city has been reserved for the State Government for allotment and no part of this area will be covered under the layouts for LPS allotment.

14. It is to be noticed that petitioners do not have direct involvement in the area which is now sought to be allotted for house-sites to the EWS. It is the area reserved for electronic city. The issue as to whether the nine (9) cities would remain intact for development of capital is pending before the Hon'ble Supreme Court. Since the petitioners do not have any right for allotment of developed plots in the area earmarked for electronic city, they would not be directly affected if the subject allotment is made by the State Government. Petitioners' contention that since they have pooled their lands for development of capital city, which includes electronic city, any violation of the core of the electronic city would tantamount to violation of their rights, is the matter under consideration before the Hon'ble Supreme Court in the pending S.L.P. However, since in the order dated 28.11.2022 passed in S.L.P. (Civil) Diary No.24371/2022, the Hon'ble Supreme Court has not stayed direction No.2 of the Full Bench judgment and the same includes permission to the State Government to carryout construction

of capital city or development of capital region, which includes development of all sections of the society including EWS and persons living below poverty line, this Court is not inclined to grant interim relief as sought by the petitioners, which would otherwise be in violation of judicial propriety as long as the matter is pending before the Hon'ble Supreme Court and the interpretation of the interim order dated 28.11.2022 passed by the Hon'ble Supreme Court is involved in the matter.

15. Accordingly, all the interlocutory applications are dismissed. However, it is observed that implementation of the said G.O. and the consequent allotment of house-sites to the EWS shall be subject to the outcome of the writ petitions.

Sd/-

PRASHANT KUMAR MISHRA, CJ

MRR

Sd/-

RAVI NATH TILHARI, J