

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.33315 OF 2022

And

WRIT PETITION No.1927 OF 2023

COMMON ORDER:

Writ Petition No.33315 of 2022 is filed by 10 petitioners seeking the following relief:

‘... pass an order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents more particularly respondent Nos.4 and 5 demolishing semi finished houses on Plot Nos.236, 454, 376, 28, 35, 250, 127, 251, 410 and 270 in Sy. No.48/2 of Vallampally Village, Utkoor Mandal, Narayanpet District without any notice as illegal, arbitrary and violative of Articles 14, 21 and 300A of the Constitution of India and to set aside the same and consequently direct the respondents not to dispossess the petitioners herein in respect of the house site plots bearing Nos. 236, 454, 376, 28, 35, 250, 127, 251, 410 and 270 in Sy. No.48/2 of Vallampally Village, Utkoor Mandal, Narayanpet District and pass such other order or orders as are deemed fit and proper in the circumstances of the case.’

2. The petitioners have also filed Writ Petition No.1927 of 2023 seeking the following relief:

‘... to pass an order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents more particularly respondent Nos.2 and 5 in handing over the possession to the respondent No.6 for construction of District Police Office vide letter dated 04.10.2021, 28.04.2022 and Panchanama, dated 08.02.2022 in respect of land admeasuring Ac.15.00 guntas in Sy.No.48/2 of Vallampally Village, Utkoor Mandal, Narayanpet District without resumption of the land, without notice to the petitioners and without following the process of law by the respondents as illegal, arbitrary and violative of Articles 14, 21 and 300A of the Constitution of India and consequently to direct the respondents not to dispossess the petitioners herein in respect of the land Sy. No.48/2 of Vallampally Village, Utkoor Mandal, Narayanpet District and pass such other order or orders as are deemed fit and proper in the circumstances of the case.’

3. Heard Sri Nambi Krishna, learned counsel for the petitioners and learned Government Pleader for Assignment.

4. The *lis* involved in both the Writ Petitions and the parties are one and the same, therefore, both the Writ Petitions were heard together and decided by way of this Common Order.

5. The petitioners are claiming that they are the residents of Narayanpet Town. Respondent No.3 had acquired land admeasuring Ac.15.00 guntas in Sy. No.48 of Vallampally Village, Utkoor Mandal vide Proceedings No.1/1423/2006 under purchase scheme for providing house sites to eligible beneficiaries belonging to weaker sections of Narayanpet Municipality (Urban) in Indiramma Programme by paying an amount of Rs.99,800/- per acre (consent rate) including all other benefits to pattadars. The District Collector, Mahaboobnagar issued Proceedings No.G2/117/2006 for acquisition of the land for the said purpose. Accordingly, the said property was acquired from Sri Umakanth, S/o. Siddanna, owner of the land, who has executed registered sale deed bearing document No.1230 of 2007 dated

05.05.2007 in favour of the government of Andhra Pradesh represented by Deputy Director, Social Welfare.

6. Vide letter dated 23.01.2007 the respondent No.3 has requested respondent No.5 to take over the possession of the said property from the pattadars and hand over the same to Assistant Engineer (Housing), Narayanpet under the cover of panchanama. The respondent No.3 also directed the respondent No.4 to prepare the list of beneficiaries for providing house sites to the weaker section people of Narayanpet Municipality. A list was prepared accordingly. A layout was also obtained from Narayanpet Municipality. On 09.11.2006 the Deputy Executive Engineer (Housing), Narayanpet Division has issued a letter to the respondent No.3 with a request to hand over the possession of the said land to Assistant Engineer (Housing) Urban, Narayanpet, so as to take steps for grounding the houses.

7. Vide letter dated 27.01.2007, the Assistant Director (S & L.Rs), Mahaboobnagar requested the respondent No.3 for providing house sites to weaker sections under Indiramma Housing Programme for Narayanpet weaker sections. The

local MLA issued a letter to the District Collector, Mahaboobnagar District with regard to the modified online list Phase – I Housing Adarsha Indiramma Wards of Narayanpet Mandal. The Commissioner, Narayanpet Municipality vide Letter No.A1/81/2008 furnished the list of beneficiaries to the District Collector, Mahaboobnagar in respect of the revised house list of category – III Indiramma Phase – I of Narayanpet Municipality. Vide letter dated 05.05.2010, the A.P. State Housing Corporation Limited has requested the Branch Manager, Central Bank, Narayanpet (Urban), Mahaboobnagar to credit the amount as mentioned in Column No.7 to the S.B. Account of beneficiary mentioned in Column No.8 by debiting the account of PD, APSHCL.

8. The petitioners are residents of Narayanpet and they are houseless poor, eking out their livelihood as daily labourers. They are under the below poverty line category. Considering the said facts, the respondent No.5 had issued patta certificates vide proceedings No.B/279/2007 in respect of Plot Nos.236, 454, 376, 28, 35, 250, 127, 251, 410 and 270 in Sy. No. 48/2 of Vallampally Village, Utkoor Mandal, Narayanpet District to an extent of 75 square yards each and possession

was also delivered in their favour. An amount of Rs.40,000/- was sanctioned for construction. They have constructed house partly by paying an amount of Rs.10,000/- each to the contractors.

9. According to them, the respondents have not provided minimum facilities like water, power supply etc., therefore, they could not complete the construction. Even then the respondents are trying to dispossess them from the subject property without following the procedure as laid down under the law and without even passing resumption orders. Therefore, questioning the said orders, the petitioners have filed Writ Petition No.33315 of 2022.

10. On the request made by the Superintendent of Police, Narayanpet, vide letter dated 29.09.2021, the respondent No.5 sent proposals for alienation of the subject property. According to them, they have taken possession of land admeasuring Ac.15.00 guntas for construction of District Police Complex under the cover of panchanama dated 08.02.2022. It is also alleged that they have taken possession

and intending to start construction activity. Challenging the same, the petitioners have filed W.P.No.1927 of 2023.

11. According to the petitioners, they are houseless poor and pattas were issued in their favour in respect of land in Sy. No.48/2 of Vallampally Village, Utkoor Mandal, Mahaboobnagar. No resumption orders were passed. According to the petitioners, there was no violation of terms and conditions of patta certificates. An amount of Rs.40,000/- was sanctioned under Urban Housing Scheme and they have also paid Rs.10,000/- each to the contractor for the purpose of construction of the houses. Respondents have not provided minimum facilities like water, power supply etc., therefore, they could not complete the construction. However, if there is violation of any of the conditions of the patta certificates, the respondents have to follow the due procedure laid down under the law including passing resumption orders. In the present case, without passing resumption orders, the respondents are trying to dispossess the petitioners from their respective house sites, which is illegal. On the other hand the respondents have allotted the said property for the purpose of construction of District Police

Complex without following the due procedure. Therefore, the Writ Petition No.1927 of 2023 is filed, challenging the said action.

12. It is relevant to note that when W.P.No.33315 of 2022 came up for hearing, the Tahsildar, Utkoor Mandal has produced written instructions, wherein it is stated that the land admeasuring Ac.19.29 guntas is a patta land in Sy. No.48 of Vallampally Village, Utkoor Mandal, out of which an extent of Ac.15.09 guntas was acquired under purchase scheme under Proceedings of District Collector, Mahabubnagar vide Proceedings No.G2/117/2006, dated 26.09.2006 for providing house sites to B.C. and minority Families of Narayanapet Town as the proposed land is situated adjacent to Narayanapet sivar. Instructions of RDO, vide letter No.1/1423/2006, dated 23.01.2007 were issued. On physical verification of ground realities, it is found that some houses have been constructed in an extent of Ac.1.30 guntas at basement upto partly walls by the Housing Department, Indiramma Housing Scheme, which are also dilapidated. In the remaining extent of Ac.13.10 guntas, there is no construction and it is open land. As per the rules

of G.O.Ms.No.546, Revenue (Q-2), dated 26.04.1975, the beneficiaries have to make construction of the house within six months of its allotment. The petitioners grossly violated the said rules, as such the land was resumed to the government custody and proposed for alienation of the same for construction of the District Police Office/Complex in newly formed Narayanpet in the area of Ac.15.00 guntas in Sy.No.48 of Vallampally Village, Utkoor Mandal.

13. It is further stated that the house site certificates were issued by the Mandal Revenue Officer, Narayanpet instead of Mandal Revenue Officer, Utkoor, who is competent authority and there is jurisdiction lapse prevail. Therefore, the certificates are manipulated, created by unsocial elements with a malafide intention. The petitioners failed to construct a house at allotted place, even after lapse of 15 years from its allotment. When the land was proposed for construction of the District Police Complex, the petitioners have filed the present Writ Petition with a malafide intention.

14. The very same Tahsildar has produced written instructions dated 15.09.2022, wherein it is stated that the

total area to an extent of Ac.15.00 guntas has been taken into custody of Government and gave advance possession to the District Police Authority for construction of the District Police Complex in the newly formed Narayanpet District.

15. In the counter filed by the Tahsildar, Utkoor Mandal, it was admitted with regard to acquisition of land from its owner under the aforesaid sale deed and further contended that the very claim of the petitioners is fictitious and bogus. The patta certificates stated to have been issued by the Narayanpet Mandal are forged and created and Vallampally Village falls under the Utkoor Mandal. Therefore, the petitioners have created the said patta certificates. A clarification was sought from respondent No.4, who in turn furnished information stating that on enquiry of the available records in his office, File No.B/1279/2007 is maintained distribution registered in the year 2007 Vol-I, Page 298, Sl.No.1279 recorded as income certificate of Narayanpet Mandal. Therefore, the petitioners have not approached the Court with clean hands and they have created fabricated documents. On the request made by the Superintendent of Police, for construction of District Police Complex within the

limits of Vallampally Village, Utkoor Mandal, proposals were made and possession was handed over to Superintendent of Police under the cover of panchanama way back on 08.02.2022 for construction of District Police Office/Complex. The petitioners are aware of the same and even then they have filed the present Writ Petitions based on forged and fabricated documents. Hence, the claim of the petitioners is misconceived and with the said submissions, the respondent No.5 sought to dismiss the Writ Petitions.

16. The petitioners have filed reply to the said counter denying the allegations made in the counter affidavit filed by respondent No.5.

17. As discussed supra, a perusal of the record would reveal that Sri Umakanth, S/o. Siddanna was absolute owner and possessor of the land admeasuring Ac.15.00 guntas in Sy. No.481 of Vallampally Village, Utkoor Mandal and he has sold the said property in favour of the Government of Andhra Pradesh represented by Deputy Director, Social Welfare under registered sale deed bearing document No. 1230 of 2007 dated 05.05.2007. In the said sale deed, it is specifically

mentioned that the Government has purchased the said property for the purpose of allotting house sites to the weaker sections. The petitioners have filed copies of the patta certificates in File No. B/1279/2007 dated 07.08.2007 in their favour. In the said patta certificates survey number is mentioned as 48/2 and extent is mentioned as 75 square yards and Plot numbers are also specifically mentioned. The following conditions are mentioned in the said patta certificates.

- a) The house should be completed in the house site allotted.
- b) The house should be constructed in the manner approved by the concerned Department.
- c) At least five feet space shall be left in front of the house and open place shall be left beside the house.
- d) Pattadar shall not donate, let out, mortgage or sell the allotted property without permission of the government.
- e) In the event of failure of aforesaid conditions, the patta certificate will be cancelled and the property will be resumed.

18. The petitioners have also filed Proceedings No. 1/1423/2006, dated 23.01.2007 of RDO addressed to the

MRO, Utkoor Mandal and also lay out. Along with the reply to the counter filed by respondent No.5, the petitioners have also filed list of eligible beneficiaries for allotting houses sites for construction of houses under Indiramma – Phase – I Programme at Narayanpet Municipality under ward Nos.5, 6, 10, 19 and 21. In the said lists, the names of the petitioners are mentioned at Sl.Nos.28 and 35 (Ward No.6), 17, 34 and 71 (Ward No.21). The aforesaid facts would reveal that the respondents are taking contrary stands i.e., on one hand the respondents are contending that the petitioners have created fictitious documents and on the other hand they are contending that the petitioners failed to comply with the conditions imposed in patta certificates and therefore, the land was resumed. The said contradictory statements cannot go together. The respondents have to take one stand. They cannot speak in two voices and the same is illegal as held by the Honourable Apex Court in **Lloyd Electric and Engineering Limited v. State Of Himachal Pradesh and others**¹. In the present case, the respondents are speaking two voices, which is impermissible.

¹ 2016 (1) SCC 560

19. As discussed supra, the respondents have acquired the aforesaid property under the aforesaid sale deed from its owner, Uma Kanth and in the said sale deed, it is specifically mentioned that for the purpose of providing house sites to the weaker sections the aforesaid property was acquired. The respondent No.4 had issued patta certificates in favour of the petitioners. When Vallampally Village falls under Utkoor Mandal, there is no explanation from the Tahsildar, Narayanpet, as to on what basis, he has signed the patta certificates. However, for their mistake, the respondents cannot blame the petitioners.

20. It is also relevant to note that apart from aforesaid patta certificates, the petitioners have also filed list of beneficiaries and the names of the petitioners are specifically mentioned at serial numbers as stated supra. Therefore, the respondents cannot blow hot and cold together. If the petitioners violate any of the conditions imposed in the patta certificates, the respondents have to follow the due procedure laid down under the law and pass resumption orders. In the present case, no such procedure was followed by the respondents. No notices were issued to the petitioners alleging violation of

terms of the patta certificates and explanations were not called for from the petitioners. No resumption proceedings were passed. Without following the said procedure laid down under the law, the respondents cannot dispossess the petitioners under the guise of allotting the said land to Superintendent of Police for the purpose of construction of District Police Complex / Office.

21. As held by Apex Court in **Olga Tellis Vs. Bombay Municipal Corporation**² and **Yatam Bangaru Venkamma and another v. State of Andhra Pradesh**³, Article 21 of the Constitution of India guarantees right to life, which includes right to livelihood. Time and again the Courts not only held that Article 21 is one of the great silences of the Constitution. The right to livelihood cannot be subjected to individual fancies of the persons in authority. The sweep of the right to life conferred by Article 21 is wide and far reaching. An important facet of that right is the right to livelihood, because, no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as

² AIR 1986 SC 180

³ 2020 (5) ALD 601 (AP)

a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. The right to live with human dignity, free from exploitation is enshrined in Article 21 and derives its life breadth from the Directive Principles of State Policy and particularly Clauses (e) and (f) of Article 39 and Articles 41 and 42 and at least, therefore, it must include the right to live with human dignity, the right to take any action which will deprive a person of enjoyment of basic right to live with dignity as an integral part of the constitutional right guaranteed under Article 21 of the Constitution of India.

22. As discussed supra, the said aspects were not considered by respondents in handing over the land to the Superintendent of Police for construction of the District Police Office/Complex. Viewed from any angle, handing over the possession of land admeasuring Ac.15.00 guntas in Sy.No.48/2 of Vallampally Village, Utkoor Mandal, Narayanpet District to the respondent No.6 for construction of District Police Office vide letter dated 04.10.2021, 28.04.2022 and Panchanama, dated 08.02.2022 is without following the

procedure laid down under law and without passing any resumption order and the same is illegal and arbitrary, as such the same are liable to be set aside.

23. Accordingly, Writ Petition No.33315 of 2022 and Writ Petition No.1927 of 2023 are allowed. The letter dated 04.10.2021, 28.04.2022 and Panchanama, dated 08.02.2022 in handing over the possession of land admeasuring Ac.15.00 guntas in Sy.No.48/2 of Vallampally Village, Utkoor Mandal, Narayanpet District to the respondent No.6 for construction of District Police Office is set aside. The respondents are directed not to dispossess the petitioners from their house site plots bearing Nos. 236, 454, 376, 28, 35, 250, 127, 251, 410 and 270 in Sy. No.48/2 of Vallampally Village, Utkoor Mandal, Narayanpet District, each plot admeasuring 75 square yards without following the due procedure laid down under law. There shall be no order as to costs.

As a sequel, the Miscellaneous Petitions, pending if any, shall stand closed.

K. LAKSHMAN, J

Date: 05.06.2023
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THE HONOURABLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION Nos.33315 OF 2022 & 1927 of 2023

05-06-2023

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