

(2003) 09 AP CK 0054

In the Andhra Pradesh High Court

Case No : Writ Petition No. 18608 of 2003

Gandhi Schedule Caste and Backward Classes Community
Society

APPELLANT

Vs

The District Collector and Another

RESPONDENT

Date of Decision : 12-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 6 ALT 839

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : P. Jagadish Chandra Prasad, for the Appellant;

Final Decision : Dismissed

Judgement

V.V.S. Rao, J.—The petitioner is a society allegedly established in 1963 to espouse the cause for the welfare of the persons belonging to Scheduled Castes and Backward Classes, who are residents of Gandhi Colony near Jubilee Bus Station, Secunderabad. The land occupied by the members belonging to the petitioner society is allegedly comprised in Sy. Nos. 486 and 487 in Secunderabad Cantonment area. The petitioner alleges that there are about 400 families residing in the area for the past several decades. The petitioner society has been trying for the last about two decades to get a house site allotted to its members who are in occupation of small extents of land and who have constructed houses thereon, in vain. In 1988, the District Collector, Hyderabad appears to have initiated a proposal for acquiring the land admeasuring Acs.6.20 gts. in Sy. No. 486 from some persons who claimed to be owners and also APSRTC. Be that as it is, the colony came up there was provided with all facilities like drainage, electricity, drinking water etc. and came to be known as Gandhi Colony.

2. During Janmabhoomi programme in January 1998, the District Collector assured to construct houses for the residents of Gandhi Colony under A.P. Grih

Nirman Samithi Programme. The Government identified 376 hut dwellers as eligible persons for allotment of houses. The petitioner also alleges that the Collector promised them to allot 42 Sq.yds. to each member and a layout was also prepared. The Housing Board prepared the project to construct houses in an extent of Ac.1.345 guts. divided into 126 plots duly raising group of houses in ground floor and two upper floors. Accordingly, a part of the work was completed and other 44 plots were allotted to beneficiaries. In the meanwhile, the Government of Andhra Pradesh came forward with Valmiki Ambedkar Awas Yojana scheme proposing to construct houses for the poor people. The respondents issued proceedings proposing to allot 31 Sq.yds. to each beneficiary instead of 42 Sq.yds. as per the old plan. This, according to the petitioner, is illegal and arbitrary.

3. Learned counsel for the petitioner contends that the reduction of the plot size for construction of houses is arbitrary and illegal. He submits that the plot sizes are being reduced due to political influence so as to accommodate other persons who are not identified as beneficiaries. Therefore, he vehemently contends that the respondents may be directed to proceed with the construction of houses in 42 Sq.yds. as proposed in the Ambedkar Valmiki Awas Yojana i.e., first floor and ground floor.

4. Learned counsel for the petitioner has not placed before me the Valmiki Ambedkar Awas Yojana. He has not even placed before me any material to show that the members of the petitioner society are in possession of the house sites in excess of 42 Sq.yds. as claimed. The layout prepared by A.P. Urban Development and Housing Corporation which is annexed to the writ petition would show that the size of each plot is 22....The same was, however, prepared in connection with LIG Housing scheme at Jubilee Bus Station and not for Valmiki Ambedkar Awas Yojana Scheme. The petitioner has not placed any material that the members of the society have a right to be enforced in respect of 42 Sq.yds. He has also not placed any material to show that there was any promise made by the respondents that houses will be constructed in plot area of 42 Sq.yds. each. When the petitioner has not shown any right to have 42 Sq.yds. site and failed to demonstrate that a duty is cast on the respondents, no writ would lie. A reference may be made to the judgment of the Supreme Court in Director of Settlements, Andhra Pradesh and Others Vs. M.R. Apparao and Another, wherein it was held:

.....One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed.....In order to obtain a writ or order in the nature of mandamus, the appellant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition.....

5. Further, a judicial notice may be taken that when a scheme like Vaas is floated to benefit the people who are below poverty line and who are poor without any house, such a scheme should be, in my considered opinion, interpreted in such a manner that it would benefit large number of people than the people who are targeted originally. All the beneficial schemes should be evaluated on the principle that a large number of targeted group are benefited. If a housing scheme like Vaas is interpreted in a narrow and pedantic manner, the same would not achieve the purpose for which the scheme is prepared namely, providing shelter to a large number of poor persons.

6. In the result, for the above reasons, the writ petition fails and is accordingly dismissed at the admission stage.