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**(2022) 04 TEL CK 0002**  
**In the Telangana High Court**  
**Case No : Writ Appeal No. 1602 Of 2018**

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| Nagarjuna Nagar Welfare Association | Vs | APPELLANT  |
| State Of Telangana                  |    | RESPONDENT |

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**Date of Decision :** 01-04-2022

**Acts Referred:**

Urban Land (Ceiling and Regulation) Act, 1976 — Section 8(1), 8(3), 8(4), 10(3), 10(6), 23(4)

**Citation :** (2022) 04 TEL CK 0002

**Hon'ble Judges :** Satish Chandra Sharma, CJ; Abhinand Kumar Shavili, J

**Bench :** Division Bench

**Advocate :** K V Bhanu Prasad

**Final Decision :** Dismissed

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## Judgement

1. The present appellant before this Court, Nagarjuna Nagar Welfare Association has filed the present appeal being aggrieved by the action of the Government of Andhra Pradesh/respondent No.1 in the writ petition in regularising the occupation of respondent No.5/Sri M.Pratap Reddy in respect of piece of land vide G.O.Ms.No.100, dated 17.01.2005.

2. The facts of the case reveal that the appellant/Nagarjuna Nagar Welfare Association, which is representing the colony people, earlier came up before this Court by filing a writ petition, i.e., W.P.No.2577 of 2000 being aggrieved by the action of the District Collector, Hyderabad in rehabilitating hut dwellers and in respect of construction of multi-storeyed complex. The writ petition was dismissed on 17.06.2005 and no construction was raised over the land admeasuring 290 square meters. The appellant herein raised a ground in the writ petition that the land they are claiming can be converted into a park or a lung space and can be enjoyed by the colony people.

The facts of the case further reveal that G.O.Ms.No.100, dated 17.01.2005 was issued by the Collector mentioning that the respondent No.5 is in possession of

the land and he has made an application on 13.12.2004 for regularising his possession by paying amount to the State Government. The petitioner, who is an appellant before this Court, has raised a ground that in earlier round of litigation, i.e., in W.P.No.2577 of 2000, the Mandal Revenue Officer filed an affidavit stating that the possession of the land was taken on 28.10.1998 by him and a boundary wall has been constructed. It was further stated that the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad gave a false report stating that the respondent No.5 is in possession of the land and an order of regularisation was passed on 17.01.2005.

3. The learned counsel for the appellant vehemently argued that in the earlier round of litigation, once an affidavit was filed by the Mandal Revenue Officer stating that the land is in possession of the State Government and by no stretch of imagination, it could not have been regularised in the method and manner it was done. The learned Single Judge has erred in law and on facts in dismissing the writ petition.

4. A counter affidavit was filed by the respondent No.2/Special Officer and Competent Authority stating that one Smt. Chitra Narsing Rao was the owner of the schedule land to an extent of 1337.67 square meters in Survey No.156/1 (old) and 165/5 (new) of Lallaguda Village, Marredpally Mandal, Hyderabad District and she filed a declaration under Urban Land (Ceiling and Regulation) Act, 1976 (the ULC Act, for brevity). An enquiry took place as required under Section 8(1) of the ULC Act, a notice under Section 8(3) of the ULC Act was issued on 15.01.1977 inviting objections and a final order under Section 8(4) of the ULC Act was passed on 04.01.1978 holding that the landholder was having surplus land to an extent of 302.41 square meters situated at old survey No.156/1 and 165/5 (new) of Lallaguda Village of Marredpally Mandal, Hyderabad and accordingly a notification under Section 10(3) of the ULC Act was published in A.P.Gazette No.17, dated 21.05.1998 and an order under Section 10(6) of the ULC Act was issued vide proceedings dated 26.08.1998. The surplus vacant land to an extent of 302.31 square meters was handed over to the Mandal Revenue Officer, Marredpally on 28.10.1998 and at present, the land is vacant on ground. It has been further stated that in the counter affidavit filed in W.P.No.2577 of 2000, it was stated by the Mandal Revenue Officer that the land is covered with compound wall and is in his possession and it was also stated in the affidavit that the colony people have never used the said place as park or a playground.

5. The respondent No.2/Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad has further stated in the counter affidavit before the learned Single Judge that the respondent No.5 has preferred a petition under G.O.Ms.No.455, dated 27.02.2022 for regularisation of ceiling surplus land to an extent of 214 square meters situated at Lallaguda Village, Marredpally Mandal. His petition for regularisation was based upon tax receipt bill, dated 06.12.1999 and also a registered sale deed, dated 19.02.1993. Accordingly, his case was

recommended to the Government for allotment of land under Section 23(4) of the ULC Act and finally a Government Order i.e., G.O.Ms.No.100, dated 17.01.2005 has been issued allotting the excess land admeasuring 214 square meters in survey No.165/5 (new) and 156/1 (old) situated at Lallaguda Village, Marredpally Mandal in favour of the respondent No.5. The respondent No.2 has also issued an endorsement on 10.04.2005 and it has been stated in the affidavit that the colony people are not at all using the subject land.

6. A detailed counter affidavit has also been filed by the respondent No.5 stating that the so called Association (appellant) got no legal right over the land and by no stretch of imagination, the land belonging to the respondent No.5 can be converted into a park. It was also stated by him that earlier writ petition, i.e., W.P.No.2577 of 2000 was dismissed by this Court and therefore, the writ petition under challenge is barred by res judicata and in the earlier round of litigation, no relief was claimed against the respondent No.5. It was also brought to the notice of the learned Single Judge that the property in question was purchased by the respondent No.5 through a registered sale deed, dated 11.06.1993 and his predecessor-in-title has purchased the said property in the year 1962 by way of registered sale deed, dated 10.10.1962. The land was exclusively in his possession, however, subsequently he came to know that the property purchased by him was shown as excess land even he has paid the substantial amount at the time of purchase, and therefore, in order to avoid further complication in the matter, he preferred a petition under G.O.Ms.No.455, dated 27.02.2002 for regularisation of the land and in those circumstances, G.O.Ms.No.100, dated 17.01.2005 was issued.

7. The learned Single Judge after hearing the parties at length has passed an order upholding the action of the District Collector, Hyderabad/respondent No.4 and paragraphs 7 to 10 of the aforesaid order are reproduced as under:-

"7. As seen from the record, the petitioner is a registered welfare association. According to them, an extent of 290 sq. mts. is there in their colony and a small piece of land is used as a long space by all the colony people. When the District Collector, Hyderabad i.e., 4th respondent tried to construct multi-storied complex, the petitioner-association along with five others filed WP No.2577 of 2000. The averments in the said writ petition are that the action of the District Collector (4th respondent herein) in constructing the multi storied complex, without a sanctioned plan, without any set-backs contrary to the bye-laws and zoning regulations and law of the land and silently approving the same by the Hyderabad Municipal Corporation, is illegal and arbitrary, and a consequential direction to the respondents to dispose of the representation filed by the petitioner, in accordance with law. As seen from the order in WP No.2577 of 2000, the Government started constructing G+2 housing scheme for the benefit of 21 poor persons, the Municipal Corporation of Hyderabad has approved the lay out under G+2 scheme and that the construction work was in progress, the said writ petition was filed on the ground that an extent of 290 sq. mts. was being

used by the senior citizens and others and that no space is left over for park. A counter-affidavit was filed by the 4th respondent therein stating that the Urban Land Ceiling Authorities have declared an extent of 302.3 sq. mts. as surplus land and that the possession of the land was taken over on 28.10.1998 and that the colony people never used the said land as a park or play ground. The Municipal Corporation also filed its counter-affidavit therein stating that the open space provided and reserved in the lay out should be used for public purpose only and that the Collector is undertaking construction work in the area in question for allotment of house sites to the weaker sections and that the hut dwellers who are residing in the area were removed pursuant to the directions in WP No.22190 of 1999 dated 27.10.1999, that the land in question is the government land and no lung space is available in the approved lay out. The said writ petition was dismissed on 17.06.2005 observing that the land in question is the government land and the petitioners have no claim over it. Hence, as seen from the order in WP No.2577 of 2000, the Municipal Corporation of Hyderabad stated that the land in question is the government land and there was no lung space in the approved lay out. The petitioner also filed copy of the representation submitted by them to the District Collector on 09.10.2007 requesting for allotment of this particular land to MCH for developing children's park in the said area. This representation filed along with the writ petition itself shows that even in the year 2007 they filed an application to the District Collector for allotting this land to MCH for developing children's park. In view of the said representation, which was filed in the year 2007, the contention of the petitioner is that the colony people are enjoying this piece of land for the last more than 1½ decades may not be believed. In WP No.2577 of 2000, this Court categorically observed that the petitioner have no claim over the land in question. Admittedly, the said judgment has become final, as no appeal, whatsoever was filed challenging the said judgment.

8. The main contention of the petitioner is that possession of the subject property was taken over on 28.10.1998 by the Mandal Revenue Officer, according to the counter-affidavit in WP No.2577 of 2000 and as the possession of the subject land is with the Tahsildar, the impugned G.O.Ms.No.100 dated 17.01.2005 is bad and liable to be set aside.

9. Learned counsel for the 5th respondent submits that he is not a party to the earlier writ petition i.e., WP No.2577 of 2000 and that the recitals in the said counter-affidavit stating that the Mandal Revenue Officer has taken possession of the subject land on 28.10.1998 could not be rebutted by him. He submits that as the 5th respondent purchased the subject land in the year 1993 for valid consideration and since then he has been in possession and enjoyment of the same and prior to him, his vendor was in possession of the same. As the 5th respondent purchased the subject land for valid consideration in the year 1993 and his vendor purchased the same in the year 1962, the 5th respondent filed an application in accordance with G.O.Ms.No.455 dated 29.07.2002 and accordingly, proceedings were issued in G.O.Ms.No.100 dated 17.01.2005 regularizing the

land in his favour. Admittedly, the petitioner does not have any right over the subject land. Even in the representation filed by the petitioner-association on 16.01.2007, they sought allotment of the land to the Municipal Corporation of Hyderabad for developing it as children's park. The 5th respondent is a bona fide purchaser for valid consideration and sought regularization in accordance with G.O.Ms. No.455 dated 29.07.2002 by paying prescribed fees. As the 5th respondent purchased the land in the year 1993 by registered sale deed, it cannot be said that he is not in possession of the subject land basing on the recitals in the counter-affidavit filed by the Mandal Revenue Officer in a writ petition, to which the 5th respondent is not a party.

10. Having regard to the facts and circumstances of the case and for the reasons stated above, the writ petition is devoid of any merit and is liable to be dismissed."

8. The documents on record and the order passed by the learned Single Judge reveal that at no point of time the appellant association was in possession of the land in dispute and it was never used as a park or a playground. In the earlier round of litigation in W.P.No.2577 of 2000, it was categorically stated by the Mandal Revenue Officer, Marredpally that the Urban Land Ceiling Authorities have declared an extent of 302.3 square meters as surplus land and the possession of the land was taken on 28.10.1998. It was also stated in the counter affidavit that the colony people never used the said land as park or playground. The writ petition was dismissed on 17.06.2005 holding that the petitioner has no claim over it.

9. The most important aspect of the case is that the respondent No.5 came up before this Court stating that he has purchased the land admeasuring 214 square meters along with house bearing No.12-13-643/1 being part of survey No.166/1 situated at Lallaguda Village, under a registered sale deed dated 11.06.1993 and his vendor has purchased the said property in the year 1962 by way of registered sale deed dated 10.10.1962. The land was never used by children of the petitioner association as park and the respondent No.5 came to know that the property, which he has purchased and has been in possession, has been shown as excess land and therefore, in those circumstances, he applied for regularisation/allotment of the said land and the Government has issued G.O.Ms.No.100, dated 17.01.2005 allotting the excess land of 214 square meters to the respondent No.5. The respondent No.5 has been in legal possession of the said land from 1993 and prior to it, his vendor was in possession from 1962.

10. In the considered opinion of this Court, the official respondents have followed the provisions as contained in the Urban Land (Ceiling and Regulation) Act, 1976 and G.O.Ms.No.455, dated 27.02.2002, which provides for regularisation of land and issued G.O.Ms.No.100, dated 17.01.2005 allotting the land in favour of the respondent No.5. It is nobody's case that the appellant association is having title over the land in question or is in possession of the land. The respondent No.5 is a bona fide purchaser, who has paid valid sale consideration and therefore, the

allotment of land in favour of the respondent No.5 by collecting prescribed amount is in accordance with law. This Court does not find any reason to interfere with the order passed by the learned Single Judge.

11. The writ appeal is accordingly dismissed. Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.