

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION (PIL).No.263 of 2020

ORDER: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

The present public interest litigation has been filed by the petitioner, who is claiming himself to be a social worker, stating that respondent No.7 is carrying out illegal construction activities and has established M/s. Divi's Laboratories Limited on the neighbouring land of Golden Forest Industry Private Limited situated at Lingojigudem Village, Choutuppal Mandal, Yadadhri Buwanagiri District, Telangana State, by violating the building permission.

It has also been stated that the villagers have deposited the money with Golden Forest Industry Private Limited and respondent No.7 is encroaching the property of Golden Forest Industry also. The petitioner has impleaded the State Government as well as Pollution Control Board as respondents in the matter.

A detailed and exhaustive reply has been filed by the Hyderabad Metropolitan Development Authority (HMDA) and

paragraphs 5 to 7 of the affidavit submitted by HMDA read as under:

“5. It is further submitted that 7th respondent constructed the compound in its land to protect its extent of land of about Ac. 125.34 guntas as covered by Survey No.266, 267, 268, 269, 270, 271, 272, 273, 278 & 279 of Lingo jigudem Village, Choutuppal Mandal, Yadadri-Bhongir District which was purchased by it from the patta land owners. It has come to know that the compound wall is constructed after purchasing the land. The 7th respondent made an application dated 01.02.2019 seeking permission for the construction of industrial building to an extent of 5,13,849.99 square meters under the Special Economic Zone for establishment of Pharma Industry. On satisfying with title over the land, the HMDA has asked the 7th respondent to comply with all required conditions including the payment of fee of Rs.5,08,29,479.00. On complying with above requirements, the building permission was granted vide Lr.No.019840/11/U6/HMDA/01022019, dated 14.06.2019. Therefore, there is no truth in the averments as made in para No.4.1., 4.5.

6. In reply to para No. 4.6., I submit that the Tahasildar, Mandal Choutuppal has categorically stated in his report dated 11.07.2020 that the 7th respondent/Divi's laboratory limited has constructed the compound to protect an extent of 125.02 as covered by Survey No.264, 265, 267, 268, 269, 273, 274, 275, 277 & 302. Therefore, the allegation that the 7th respondent has constructed the compound wall and industrial building in the land of Golden Forest India Ltd is not correct and as such it amounts to misleading this Hon'ble Court. Therefore, the petitioner has filed this PIL for no valid reasons, much less in public interest and thereby it amounts to abuse of Court process. Hence, I pray this Hon'ble Court may be pleased to dismiss the Writ Petition (PIL) with exemplary cost.

7. However, I submit that HMDA has delegated its certain powers to local bodies through its Lr.No.15048/HMDA/2008, dated 17.01.2009 "As per section 23 of HMDA Act, 2008 the Enforcement powers i.e., monitoring and detection of development activity contrary to the master plan/Zonal Development plan, zoning regulations, Building Rules and regulations and the services of enforcement notices and taking steps in connection with them, shall be exercised by the Executive officers/Panchayat Secretaries of respective village Panchayats. As per the delegation of powers, the concerned local body i.e., Lingo jigudem Gram panchayath is responsible to take any action against deviation or unauthorised construction.”

The aforesaid affidavit makes it very clear that all constructions made by respondent No.7 are in consonance with the building permissions granted from time to time. Learned counsel for the HMDA has also stated before this Court that after filing of the present writ petition, the entire complex was inspected and no deviation was found in respect of the building constructed by respondent No.7.

The Pollution Control Board has also filed a reply, which includes its report, dated 18.12.2020 and the Pollution Control Board has stated that respondent No.7 has obtained consent for operation on 13.05.2020, environmental clearance on 04.07.2020, consent for establishment on 08.09.2020 and the directions issued by the Pollution Control Board dated 18.10.2019 and 04.03.2020 have also been complied with by respondent No.7. The industry though is generating hazardous waste but the waste is being treated in the effluent treatment plant and the Board is regularly monitoring necessary compliance towards air and water pollution control measures.

A reply has been filed by respondent No.7 in the matter and the reply reveals that respondent No.7 also denied the allegations made in the public interest litigation.

In the light of the aforesaid, as the industry has been established after obtaining necessary permissions, constructions have been done strictly in consonance with the building permissions granted from time to time, no further orders are required to be passed in the present public interest litigation.

Accordingly, the public interest litigation is dismissed.

Miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

07.03.2022
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