

Sub:- VUDA - Allotment of alternative plot at M.V.Palem, Sector -10 to
Sri R.S. Prasad as per the Judgement of Hon'ble High Court - Reg.

AGENDA NOTE:-

The plot No.5/1 HIG of MVP layout was allotted to Sri M.S.V. Prasada Rao in the year 1980 and the sale deed was executed in his favour vide Doc. No. 1615/ dated 23-2-82. Sri M.S.V. Parasd Rao has sold away the above plot to one Sri B. Rama Raju in the year 1986 un-authorizedly without obtaining sale permission from VUDA. Sri B. Rama Raju has again sold the above plot to Smt. Kalavathi Devi Nahata and Smt. Sarojini Devi Nahata in the year 1988 without obtaining sale permission from VUDA and without intimation to VUDA. As permission was not obtained for both the sale transactions, the original allottee Sri M.S.V. Prasada Rao was shown in the VUDA records as the allottee. As the allottee did not start construction of house on the above plot, the allotment of the said plot was cancelled in the year 1994 and the balance amount was finally refunded to the wife of the deceased allottee in the year 1996. The unilateral cancellation sale deed has also been executed for the said plot vide Document No.2141/94 dated 29-10-1994 by VUDA.

The then Vice-Chairman, VUDA has ordered to recover the costs by attaching salary of the concerned officials of VUDA who proposed for re-auction of the plot No. HIG-5/1 of M.V.Palem. Accordingly action will be taken to recover the amount of Rs.7,191/- i.e. the balance amount refunded by VUDA to the Legal heir of the original allottee, of plot No. HIG-5/1 of M.V.Palem from the salaries of responsible officers of VUDA.

The said cancelled site was put to auction along with other such plots on 31-10-1994 vide Auction notification dated 12-10-1994. In the said auction, Sri V. Naga Murali became the successful bidder for the above plot @ Rs.1530/- per Sq. yard and he has paid the full cost of the site and got the sale deed executed in his favour in April 1996 through VUDA without knowing the fact that this site was already registered in favour of Smt. Kalavathi Devi Nahata and Smt. Sarojini Devi Nahata. Sri V. Naga Murali, the auction purchaser of the said plot has sold away this plot to one Sri R.S. Prasad on 6/96 after obtaining sale permission from VUDA.

Sri R.S. Prasad has started digging in the plot for construction of house Smt. Kalavathi Devi Nahata and Smt. Sarojini Devi Nahata who are said to be having title and possession over the plot have filed a suit O.S. No.633/96 against Sri R.S. Prasad and obtained injunction to stop raising any construction. Finally the O.S. was decreed in favour of the petitioners, as the petitioners are having title and possession over the said site, Sri R.S. Prasad has filed an appeal against the orders of the lower court in O.S. No.633/96 and the same is still pending in Appellate Court. The rights and possession of the 1st and 2nd respondents viz Kalavathi Devi Nahata and Sarojini Devi Nahata in respect of plot No. HIG No.5/1 of M.V.Palem layout will not be disturbed by VUDA.

While the appeal suit filed by Sri. R.S.Prasad against Smt. Kalavathidevi Nahata and Sarojini Devi Nahata against the orders of the Local Court in O.S. No. 633/96, is still pending in Appellate Court, Visakhapatnam, Sri.R.S.Prasad has filed W.P.No. 15175 of 2001 against VUDA seeking orders for allotment of alternative plot in M.V.Palem layout. The Hon'ble High Court in its orders dated 25-07-2001 while dismissing the W.P.at admission stage has observed that the respondent VUDA is not under any legal obligation to make alternate site to the petitioner and the whole writ petition is speculative in nature. The Hon'ble High Court further observed that the court does not see any merit in this Writ Petition. The order of the High Court dated 25-07-2001 are as follows.

"The writ petition is totally misconceived. The petitioner has purchased the property in question from his vendor who in turn is the auction purchaser. If any defective title is conferred to the petitioner, the only option left open to him is to proceed against his vendor and if necessary even against the respondent VUDA by way of common law remedy and seek appropriate relief. The respondent VUDA is not under any legal obligation to make alternate site available to the petitioner. No such regulation conferring any such right upon the petitioner is brought to the notice of the court. The whole writ petition is speculative in nature. The said WP is dismissed at its admission stage.

This order, however, shall not preclude the petitioner from availing such remedies as may be available to him in law and in such an event, the matter shall be considered on its own merits influenced by the dismissal of this writ petition. Against to the above orders, Sri. R. S. Prasad has filed W.A.1466/01, which also

dismissed with a direction to the petitioner to file a representation before the VUDA, and respondent VUDA may consider the same in accordance with law. Further, Sri. R.S.Prasad is also advised vide this office letter dt. 23-09-2005 to agitate with relevant points in the competent court and protect his property.

An appeal bearing No.2727/99 was filed by Sri R.S. Prasad against VUDA as respondent 3. The Hon'ble High Court in its orders dated 13-3-07 have considered to dispose off the appeal with a direction to 3rd respondent VUDA to consider the proposals for allotment of alternative site within a period of 2 months from the date of receipt of this copy of this order Mrs. V.Preethi Reddy, Standing Counsel, VUDA at Hyderabad has furnished her legal opinion on the Hon'ble High Court orders dt. 13-3-2007 issued in respect of appeal bearing No. 2722/99 filed by Sri R.S. Prasad as follows.

"Sri M.S.Varaprasada Rao purchased the above property on 23-2-1982. VUDA clearly stipulated a condition that the allottee should construct a house within 3 years failing which allotment stands cancelled. Immediately after a period of 3 years VUDA should have enquired into the matter issued notice to Sri Varaprasad Rao and cancelled the allotment. However what transpired was Sri Varaprasad Rao expired on 4-6-1987. However proceedings were issued by VUDA in the year 1994 as if he received notice and remained exparte in spite of the fact that notice sent to Sri Varaprasada Rao were returned with an endorsement "addressee died". The learned 3rd Additional Senior Civil Judge observed in his judgment that VUDA being an institution should have been ground to reality with regard to the above proceedings but however went beyond the jurisdiction force of any known norms and rules.

It is further opined that Sri R.S.Prasad purchased the property ignorant of all the above proceedings from Sri Naga Murali under registered sale deed dated 19-4-1996 who delivered possession of the property after obtaining permission from VUDA. Therefore it is clear that Sri R.S. Prasad bought the property in good faith. As the Hon'ble High court of A.P. has directed VUDA to consider his case, VUDA can initiate all the necessary and appropriate proceedings to consider his case within the time period specified by the Hon'ble High Court".

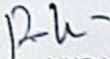
It was already agreed by the then Vice-chairman, VUDA vide orders dt. 7-6-2003 to allot alternative plot Nos. 10 & 11 of Sector 10 of M.V. Palem additional layout for an extent of 501.82 Sq. yards in favour of Sri R.S. Prasad. The total extent of the proposed plots in favour of Sri R.S. Prasad is 501.82 Sq. yards as against to actual extent involved in this case is 486.00 Sq. yards. Thus there is an excess extent of 15.82 Sq. yards

The file was referred to Sri P. Pardha Saradhy, Senior Standing Counsel also for his legal opinion and the same is as follows " that the VUDA has to allot an alternative site to Sri R.S. Prasad. Before allotting a particular alternative plot to Sri R.S. Prasad, it is desirable to obtain a letter of consent from Sri R.S. Prasad that he has no objection to accept that particular alternative plot as per the judgment of the Hon'ble High Court as early as possible.

In view of the above, the following aspects are placed before VUDA for its decision.

1. Whether to allot alternate plots bearing No.10 &11 in Sector -10 of M.V. Palem additional layout in favour of Sri R.S. Prasad for an extent of 501.82 Sq. yards as against to the actual extent of 486.00 Sq. yards which is involved in this case. The cost of excess extent of 15.82 Sq. yds shall have to be charged at the highest auction price of recent auction i.e. Rs.28,000/- per Sq. yard at M.V. Palem which was held on 20-5-2007.
2. A decision is also to be taken that who will bear the stamp duty and Registration charges on the said plots.

Resolved to approve the proposals for allotment of Plot No.10 and 11 in Sector-10 of MVPalem in favour of Sri R.S.Prasad and to charge highest auction rate of Rs.28,000/- per Sq.Yd for additional extent. Regarding the stamp duty, the Vice-Chairman, VUDA is authorized to take suitable decision in the matter.


Chairman, VUDA