

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.36154 of 2015

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05.11.2015

Between:

T.Ratna Kumari

.. Petitioner

and

The State of Andhra Pradesh,

represented by its Principal Secretary,

Municipal Administration and Urban Development Department,

Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.M.S.Prasad senior counsel

for Mr.K.Durga Prasad

Counsel for the respondents: Mr.D.Ramesh,

Special Government Pleader (AP)

The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to declare the action of the respondents in trying to demolish the petitioner’s building at Door No.21-8, Gollapudi, Vijayawada Rural Mandal, Krishna District, as illegal and arbitrary.

The petitioner pleaded that her husband has constructed a building after obtaining permission. That on the complaint of a third party, respondent No.2 has issued a show cause notice-cum-preliminary order in March, 2015 under Section 115(1) of the Andhra Pradesh Capital Region Development Authority Act, 2014 (for short ‘the Act’) to show cause why an order under Section 115(3) of the Act shall not be passed confirming the preliminary order within a period of seven days of receipt of the said notice. It is the pleaded case of the petitioner that on receipt of the said notice, her husband has submitted explanation on 28.04.2015 and that he died on 03.06.2015. She has further averred that without passing a final order under Section 115(3) of the Act, the officials of respondent No.2 have come to the petitioner’s building for demolition giving her 24 hours time to vacate the premises. She has further stated that as there are certain violations in construction of the building, an

application under the Building Penalization Scheme (BPS) was made by her on 27.07.2015 and the same is pending before respondent No.2.

At the hearing, Mr.M.S.Prasad, learned senior counsel representing Mr.K.Durga Prasad, learned counsel for the petitioner, submitted that in view of the pendency of the application under the BPS, respondent No.2 cannot proceed with the demolition. He has further submitted that unless the explanation of the petitioner's husband is considered and a final order under Section 115(3) of the Act is passed, respondent No.2 cannot remove the unauthorized structure.

Mr.D.Ramesh, learned Special Government Pleader for Andhra Pradesh, submitted that so far final order under Section 115(3) of the Act has not been passed and that respondent No.2 will take action after passing the final order and subject to its outcome.

In the light of the above facts of the case, the petitioner is permitted to file an additional explanation with reference to the subsequent event, viz., her application filed under the BPS within a period of one week from today. Thereafter, respondent No.2 shall consider the explanation, if any, submitted by the husband of the petitioner and also the additional explanation that may be submitted by the petitioner and pass a final order. Till this process is completed, respondent No.3 shall not demolish the unauthorized construction.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P.No.46498 of 2015 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

05th November, 2015

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