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HON'BLE SRI JUSTICE A.V.SESHA SAI
WRIT PETITION No.3482 of 2009

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“to issue a Writ in the nature of Writ of Mandamus or other appropriate Writ, order or direction declaring the action of the respondents 1 to 3 herein in not taking any action against the 4th respondent from restraining the construction of masque on the open space left for construction of community hall in the layout laid and approved by the 1st respondent and 2nd respondents herein in Sy.No.10 of Phase-II, 6th Ward, A.P.H.B.Colony vikarabad, Ranga Reddy District, is illegal, arbitrary and unconstitutional, consequently direct the respondents to restrain the 4th respondent from making illegal construction on the open land left for construction of community hall shown in the approved layout and to avoid causing obstructins and usage of the open land left especially for the purpose of construction of community hall in the Sy.No.10 of Phase-II, 6th Ward, A.P.H.B. Colony, Vikarabad, Ranga Reddy District and further direct the respondents 1 to 3 herein to demolish the structures if any raised by the 4th respondent in the open land left for construction of community hall in Sy.No.10 of Phase-II, 6th Ward, A.P.H.B.Colony, Vikarabad, Ranga Reddy District.”

2. Heard Sri B.S.Reddy, learned counsel for the petitioner and the learned counsel for the respondents and perused the material available before the Court

3. According to the petitioner, it is a society registered under the A.P. Societies Registration Act, 2001 and the members of the petitioner society are the residents of the Housing Board and they purchased the respective plots from the second respondent and the second respondent developed a layout approved by the then Vikarabad Grampanchayat in respect of the land in Sy.No.10 of Vikarabad village, Ranga Reddy District. It is further pleaded that as per the lay out approved by the then Grampanchayat and developed by the second respondent herein, the plot owners constructed their houses and the petitioner society constructed Sree Raghavendra Swamy Temple. It is alleged that the

fourth respondent started constructing Mosque adjacent to the Raghavendra Swamy Temple without obtaining permission from the petitioner society or from the respondents herein and that the land in which the fourth respondent is making construction is the open land left open for the purpose of construction of community hall in the housing colony. It is further stated in the writ affidavit that despite the representations dated 04.02.2009 and 11.02.2009 made by the petitioner herein, the official respondents did not take any action.

4. Despite service of notice, no counter affidavits have been filed by the respondents herein either in the direction of denying the averments in the writ affidavit or in the direction of justifying the impugned action. Therefore, this Court is inclined to dispose of the writ petition basing on the material available.

5. The only grievance precisely in the writ petition is that in spite of submission of representations dated 04.02.2009 and 11.02.2009 the first respondent municipality did not take any action against the fourth respondent. This Court, absolutely does not find any justification on the part of the first respondent herein in not responding to the representations said to have been made by the petitioner society herein in one way or the other. In view of the same, without expressing any opinion on the merits and demerits of the issue, this Court deems it appropriate to direct the first respondent municipality to take appropriate action on the representation dated 11.02.2009 submitted by the petitioner herein.

6. For the aforesaid reasons, the writ petition is disposed of, directing the first respondent municipality to take appropriate action on the representation dated 11.02.2009, in accordance with law, after giving notice and opportunity of being heard to the petitioner society as well as to the fourth respondent herein, within a period of three months from the date of receipt of this order. In the meanwhile, pending such exercise, interim order granted on 25.02.2009 in WPMP.No.4521 of 2009 shall continue to operate. Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date:11.02.2015
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Between:

Raghavendra Housing Board Colony,
Welfare Society represented by its Secretary,
T.Narsimulu, MIGH No.62,
APHC Colony, Phase-II, Allampally Road,
Vikarabad, Ranga Reddy District. ... Petitioner

and

The Commissioner,
Vikarabad Municipality, Vikarabad, }
Ranga Reddy District and three others. ... Respondents

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