

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.11099 of 2015

Date: 29-04-2015

Between:

The Dhone Cooperative House Building Society Limited,
Represented by its President R.S. Ramakrishna Reddy,
Dhone Mandal, Kurnool District

.. Petitioner

AND

The State of Andhra Pradesh, represented by its
Principal Secretary, Municipal Administration
Department, Secretariat Buildings, Hyderabad
and 3 others

.. Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.11099 of 2015

ORDER:

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This writ petition is filed for a mandamus declaring the inaction of the 2nd respondent in taking steps for cancellation of Permit No.B.A.No.118/G1/2014, in File No.214/G1/2015, dated 27-02-2015 as illegal and arbitrary and for a consequential direction to the 2nd respondent to cancel the said permission.

2. The case of the petitioner is that he was elected as President of the petitioner society on 01-04-2015 and the petitioner society was formed in 1960 and acquired land for construction of dwelling houses to its members and the 3rd respondent was allotted Plot No.29, admeasuring 359.33 square yards through a registered sale deed vide document No.2107/2012, dated 12-07-2012. Thereafter, the 3rd respondent sold the said plot to the 4th respondent on 17-01-2015 vide document No.103/2015, contrary to the conditions stipulated in the sale deed as well as the Bye-laws of the society. It is also stated that when the 4th respondent is proposing to construct a function hall and lodge in the said plot, 55 members of the society made a representation on 22-01-2015 to the 2nd respondent stating that the said function hall is being proposed to be constructed opposite to Venkateswara Swamy Temple and that there are two Government Primary Schools and other private schools and colleges in the vicinity of the plot and if any function is conducted in the said function hall the sounds of drums and other musical instruments used in the function will cause lot of sound pollution disturbing the neighbourhood. The 4th respondent made an application on 13-02-2015 before the 2nd respondent for proposed construction of commercial building consisting of stilt + 3 upper floors. It is further stated that the 2nd respondent granted permission to the 4th respondent on 27-02-2015 ignoring the representation dated 22-01-2015 and thereafter, the petitioner society made a representation to the 2nd respondent to cancel the said permission as the society permits only dwelling house in the society plots. Being aggrieved by the action of the 2nd respondent in not considering the representation of the petitioner society and the action of the 4th respondent in going ahead with the construction, the present writ petition has been filed.

3. Heard the learned counsel for the petitioner, who submits that even as per the sale deed dated 12-07-2012, which was executed in favour of 3rd respondent, it shows that plot No.29 shall be used by the member only for the construction of a dwelling house in accordance with the instructions of the Director of Town Planning, but the 4th respondent has obtained permission for construction of commercial complex, which is contrary to the conditions stipulated in the sale deed. He further stated that the representation dated 07-

03-2015 is pending before the 2nd respondent and the counsel appearing for the 4th respondent stated that as the petitioner society itself is not in existence, the 4th respondent has obtained permission, as such, they cannot be restrained the 4th respondent from making further constructions.

4. Having heard the learned counsel for the parties and in the facts and circumstances of the case, all the counsel have agreed together that the representation dated 07-03-2015 pending before the 2nd respondent can be considered and disposed of after hearing the parties.

5. In view of the same, the 2nd respondent-Municipality is directed to consider the representation dated 07-03-2015 made by the petitioner and disposed of the same, after affording a reasonable opportunity of hearing the petitioner as well as the 4th respondent. However, the 4th respondent may raise all his objections as raised herein before the 2nd respondent, who shall consider the same and pass appropriate orders. Till such orders are passed, status quo obtaining as on today shall be maintained. However, the 4th respondent shall not make any further constructions in the subject land till such orders are passed.

Accordingly, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAJASHEKER REDDY, J

Date: 29-04-2015

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