

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.35512 of 2015

Dated 02.11.2015

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Between:

Mangilal Bajaj

... Petitioner

and

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The State of Telangana

rep. by its Prl.Secretary

Panchayat Raj Dept.,

Hyderabad and 4 others.

...Respondents

Counsel for the petitioner: Mrs.Neeraja Sudhakhar Reddy

Counsel for respondent Nos.1 to 3: GP for Panchayata Raj

**Counsel for respondent No.4: Mr.K.Ramakrishna
for Mr.G.Narender Reddy,**

SC for Gram Panchayat

(name to be shown subject to Mr.G.Narender Reddy filing memo/vakalat)

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to set aside the proceeding in Lr.No.141/GPCHE/2015, dated 04-09-2015, issued by respondent No.4, whereby he has cancelled the building permission granted to the petitioner.

I have heard Mrs.Neeraja Sudhakar Reddy, learned Counsel for the petitioner, and Mr.K.Ramakrishna, learned Counsel representing Mr.G.Narender Reddy, learned Standing Counsel for Gram Panchayat.

The petitioner pleaded that he is the owner of the property bearing House No.14-21 of Chennur Village and Mandal, Adilabad District; that on his application, respondent No.4 has issued building permission on 31-07-2015; and that within a few days thereafter, respondent No.4 has issued the impugned proceeding cancelling the building permission and directing the petitioner to stop construction. The petitioner further pleaded that on receipt of the said proceeding, he has made a representation, on 04-09-2015, to respondent No.4 stating that OS.No.231 of 2010, filed in respect of the subject property, was dismissed on 16-03-2015 itself and that the said fact was already informed to respondent No.4. The petitioner requested respondent No.4 to furnish any material showing the existence of dispute over the property for which building permission was granted. As respondent No.4 has not responded to the said representation, the petitioner filed this Writ Petition.

At the hearing, Mr.K.Ramakrishna, learned Counsel representing Mr.G.Narender Reddy, learned Standing Counsel for respondent No.4- Gram Panchayat, submitted that the petitioner has already completed the construction and that he has made a fresh application for raising further construction. The learned Counsel has, however, not disputed the contents of the petitioner's representation, dated 04-09-2015.

A perusal of the impugned proceeding shows that the only ground on which respondent No.4 has cancelled the building permission granted to the petitioner was that it came to their notice that the property, in respect of which permission was granted, is subject matter of the Court litigation. Respondent No.4 has not referred to any details regarding the alleged Court litigation. Even assuming that any Court litigation is pending, unless an order of the competent Court has directed respondent No.4 to cancel the building permission, there can be no justification in cancelling the same. Moreover, before cancelling the building permission, no prior notice was issued to the petitioner. Though the impugned proceeding is styled as notice, the same is in the nature of a final order passed without prior notice to the petitioner. At any rate, the petitioner has categorically pleaded in his representation, submitted after receipt of the impugned proceeding, that OS.No.231 of 2010 pertaining to the subject property was dismissed as far back as 16-03-2015.

In the light of the above facts, the impugned proceeding in Lr.No.141/GPCHE/2015, dated 04-09-2015, of respondent No.4, cannot be sustained in law and the same is, accordingly, set aside. The Writ Petition is allowed.

As a sequel, WPMP.No.45616 of 2015, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 2nd November, 2015

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