

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.19155 of 2004

DATE: 13.02.2015

Between:

Allwyn Colony House Owners' Association,
Allwyn Colony, Phase-I,
Kukatpally, R.R. District,
Andhra Pradesh,
Rep., by its President.

... Petitioner

And

Kukatpally Municipality,
Rep. by its Municipal Commissioner,
Kukatpally Municipality, Kukatpally,
Balanagar Manda,
Ranga Reddy District and two others.

... Respondents

This Court made the following:

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA
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Order: (per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

This Writ Petition has been filed alleging inaction on the part of the first respondent – Municipality in allowing the construction in the open areas such as parks/open places/community places by third parties by approving the building plans, which areas were set apart specifically for the benefit of the community in the approved HUDA layout, as illegal, arbitrary, capricious and violative of fundamental rights.

On reading of the Writ Petition, it appears that despite complaint being made about the illegal construction and encroachment, the Municipal Authority has not taken any action. It is an old matter of 2004. Counter affidavits have been filed by the Municipal Authorities as well as the unofficial respondent.

It appears from the counter affidavit filed by the Municipal Authority that there has been some encroachment. In spite of that, nothing has been stated whether any action has been taken or not.

On the other hand, learned counsel for the unofficial respondent submits that the allegations made by the writ petitioner are unfounded.

We are of the view these are the disputed questions of fact, but there are allegations of encroachment and making illegal construction. We therefore think it appropriate to pass the following order:

While disposing of the Writ Petition, we direct the Commissioner of the first respondent – Municipality, or the successor,

if the Municipal Authority is no longer in existence, to take steps pursuant to the complaint made by the petitioner. While doing so, notice of hearing shall be given to the petitioner as well as the unofficial respondent, who will be free to place all material facts and their case before the Commissioner. The Commissioner or any other Authorised Officer will give a personal hearing and pass a speaking order on this matter. The entire exercise shall be completed within a period of eight weeks from the date of communication of this order and if any action is required to be taken under law, this should be done and completed with the logical conclusion within a period of 12 weeks thereafter. All points are kept open. We have not decided anything on the merits of the case.

Pending miscellaneous petitions, if any, shall stand closed. No costs.

K.J. SENGUPTA, CJ

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SANJAY KUMAR, J

Date: 13.02.2015

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