

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

WRIT PETITION No.33151 of 2015

-
10.12.2015

Between:

M.Damodar Reddy and others

.. Petitioners

and

The State of Telangana,
represented by its Principal Secretary,
Municipal Administration and Urban Development Department,
Hyderabad and others

.. Respondents

Counsel for the petitioners: Mr.K.Goverdhan Reddy

Counsel for respondent No.1: Assistant Government Pleader for
Municipal Administration and Urban Development (TS)

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Counsel for respondent No.2: Assistant Government Pleader for Revenue
(TS)

Counsel for respondent No.3: Mr.N.Praveen Kumar,
standing counsel for Municipalities (TS)

Counsel for respondent No.4: Mr.M.Vijay Kumar Goud

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to set aside proceedings in letter Nos.G/29/615/SDNR MPLTY/2015 & No.G/31/617/SDNR MPLTY/2015, both dated 12.03.2015, of respondent No.3 Municipality, whereby it has rejected the petitioners' applications for building permission.

The brief facts leading to the filing of this writ petition are that petitioner No.1 claimed to have purchased house plot Nos.74, 75, 80 and 81 admeasuring 225 sq.yds. each in survey No.189 of Farooqnagar Village and Mandal, Mahabubnagar District, through a registered sale deed, dated 05.06.2000, from one Hari Kishan Lohya, S/o late Seeta Ram, who was the owner of Acs.15.35 gts. of land in the aforesaid survey number, and also obtained a layout. Petitioner No.1, in turn, executed registered gift deeds on 03.06.2014 conveying house plot Nos.81, 74 and 80 in favour of petitioner Nos.2 to 4 respectively.

That when respondent No.2 sought to dispossess the petitioners from their respective plots in alleged collusion with the Andhra Pradesh Khadi and Village Industries Board (for short 'the Board'), petitioner No.1 filed O.S.No.161 of 2010 on the file of learned Principal Senior Civil Judge, Mahabubnagar, for declaration of his title and consequential relief of permanent injunction against the State represented by respondent No.2, the Board and the Khadi Gramodyoga Sangham (for short 'the Sangham'). Respondent No.2 filed a written statement in the said suit admitting the petitioners' ownership. The learned Judge has decreed the said suit on 03.10.2012 in favour of petitioner No.1. As petitioner No.1's application for building permission was rejected, in the first instance, by the then Shadnagar Gram Panchayat, he has filed an appeal before

the District Panchayat Officer, Mahabubnagar. By order, dated 17.04.2002, the District Panchayat Officer, Mahabubnagar, has allowed the said appeal and remanded the case to the then Gram Panchayat, Shadnagar. Later on, the Shadnagar Gram Panchayat was declared as Municipality and the petitioners have submitted fresh applications to the said Municipality on 27.08.2014 for grant of building permission. By the impugned proceedings, dated 12.03.2015, respondent No.3 Municipality has rejected their applications.

The colony association *viz.*, Chaitanya Youth Association, filed W.P.M.P.No.48907 of 2015 seeking its impleadment as party respondent in this writ petition. This Court, today, by a separate order, allowed the said application by impleading the said association as respondent No.4.

A perusal of the impugned proceedings shows that the only ground on which the petitioners' applications for building permission were rejected was the purported letter, dated 29.10.2002, of respondent No.2 addressed to the then District Panchayat Officer, wherein it was informed that registration of plot Nos.74, 75, 80 and 81 in favour of petitioner No.1 is irregular, as being a Member of the Sangham, he has managed the owner *viz.*, Hari Kishan Lohya and got the plots registered in his favour. Indeed, much water has flown under the bridge after the said letter was addressed, as petitioner No.1 has filed the aforesaid suit impleading the State of Andhra Pradesh represented by respondent No.2 herein as defendant No.1 and secured the decree of declaration of title in his favour. As rightly pleaded by the petitioners, respondent No.3 Municipality has completely ignored this decree, which is claimed to have become final. As on today, the petitioners' title has been declared by the competent civil Court. Hence, respondent No.3 Municipality ought not to have allowed itself to be influenced by a letter addressed by respondent No.2, almost 12 years prior to the decree in favour of the petitioners, more so, when the author of the said letter himself has

suffered the decree.

As regards the plea of the impleaded respondent, except stating that the petitioners are not the owners of the property in question, no material is produced in support of this plea.

In the above facts and circumstances of the case, the impugned proceedings in letter Nos.G/29/615/SDNR MPLTY/2015 & No.G/31/617/SDNR MPLTY/2015, both dated 12.03.2015, of respondent No.3 Municipality, cannot be sustained either in law or on facts and hence, the same are set aside. Respondent No.3 Municipality is directed to reconsider the petitioners' applications for building permission on the strength of the decree, dated 03.10.2012, in O.S.No.161 of 2010 on the file of the learned Principal Senior Civil Judge, Mahabubnagar, and without regard to the letter, dated 29.10.2002, of respondent No.2, take a fresh decision and communicate the same to the petitioners within a period of one month from the date of receipt of a copy of this order.

Subject to the above directions, the Writ Petition is allowed.

As a sequel to allowing the writ petition, W.P.M.P.Nos.42771 and 42772 of 2015 filed by the petitioners for interim reliefs shall stand disposed of and W.P.M.P.No.48905 of 2015 filed for impleading the applicant therein as party respondent in the writ petition shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

10th December, 2015

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