

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.28480 OF 2011

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ORDER:

The case of the petitioner is that her husband made an application on 18.03.1993 for construction of building in the premises bearing D.No.10-59-39, Ram Nagar, Visakhapatnam to the 2nd respondent and accordingly, the 2nd respondent granted permission on 19.08.1993 for construction of the building as per the plan submitted by the petitioner's husband and the construction was completed. Thereafter, the 2nd respondent issued notice dated 24.12.1993 to the petitioner's husband alleging violations and also directed to give explanation within five days. Aggrieved by the same, the petitioner's husband filed OS.No.6 of 1994 on the file of Prl.District Munsif, Visakhapatnam and the same was dismissed on 20.01.1997 directing the petitioner's husband to submit revised plan and application for construction within one month and also directed the 2nd respondent to consider the said application and pass appropriate orders within six months. In pursuance of the same, the petitioner's husband submitted a representation on 19.02.1997 for which the 2nd respondent issued a notice dated 17.04.1997 directing the petitioner's husband to furnish necessary documents. Thereafter, a further representation is made by the petitioner to regularize the unauthorized construction as per G.O.Ms.No.373, dated 01.07.1998 and the 2nd respondent directed the petitioner's husband to pay an amount of Rs.2,56,165/- by way of penalty without giving any opportunity or without furnishing the details as to how they arrived at such a huge amount. Asking the details, the petitioner's husband made another representation dated 04.08.1999 which is not disposed of by the 2nd respondent. While so, when the 2nd respondent again

came to the petitioner's premises on 18.12.2000 and attempted to demolish the building, the petitioner's husband filed WP.No.254999 of 2000 and the same was disposed of on 21.12.2000 setting aside the impugned notice and also directing the respondents to dispose of the representation dated 04.08.1999 by giving an opportunity to the petitioner and to pass speaking order in terms of Clause (9) of the G.O.Ms.No.373, dated 01.07.1998. But inspite of the said direction, the 2nd respondent failed to dispose of the representation dated 04.08.1999 and also failed to pass any speaking order. Thereafter, petitioner's husband passed away in the year 2009 in an accident. While the matter stood thus, the officials of the respondent Corporation have visited the house property of the petitioner on 26.09.2011 and tried to demolish the structures alleging certain deviations. Immediately, the petitioner made a representation dated 28.09.2011 to the 2nd respondent to look into the matter and pass orders. But, without passing any orders, the respondents are trying to demolish the structures of the petitioner's property. Aggrieved by the same, the petitioner filed the present writ petition.

The 2nd respondent filed counter affidavit admitting that the petitioner made an application for approval of building plan and after considering the application the respondent Corporation approved the plan submitted by the petitioner's husband vide B.A.No.309/93 ACP I dated 19.08.1993 for the purpose of construction of residential building consisting of ground plus two floors with certain terms and conditions. While making constructions the husband of the petitioner made several deviations of the approved plan and constructed cellar. Thereafter, the respondent Corporation issued notice dated 24.12.1993. The respondent Corporation denied that any application is pending with them. As such, the respondent authorities wanted to demolish the unauthorized constructions made in deviation of the

approved plan.

Heard.

In view of the fact that petitioner's husband passed away in the year 2009 who filed OS.No.6 of 1994 and WP.No. 254999 of 2000 against the respondents, and that now the respondents are trying to demolish the deviated portion of the property in question, the 2nd respondent may issue appropriate notice to the petitioner stating what are the deviations committed by the petitioner's husband while constructing the building in question and thereafter, it is open for the petitioner to submit explanation. On submission of explanation being filed by the petitioner the respondents may take further action. Till then, *Status-Quo* obtaining as on today shall be maintained by both the parties.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

25.06.2015

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