

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.40586 of 2014

DATED : 24.08.2015

Between :

Mohd. Zahed Ali S/o.Late Waheed Ali,
Aged 35 yrs, Occu : Agriculture,
R/o.Sivareddypet, Vikarabad,
Ranga Reddy District

.. Petitioner

and

The State of Telangana,
Rep., by its Principal Secretary, (Municipal Administration),
Secretariat, Hyderabad & others.

.. Respondents

This court made the following :

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ORDER :

According to the petitioner he is the owner of premises bearing No.2-3-15 and in the year 2000 building permission was granted. However no construction could take place due to financial constraints. While so, the 3rd respondent illegally commenced construction of building in the same place. In spite of filing several complaints against illegal construction, the respondent-Municipality has not taken any action and allowed the illegal construction to take place. According to the petitioner, the building is proposed to be constructed in between House No.2-3-20 and 2-3-22 which belong to, according to petitioner, to his father.

2. The 3rd respondent filed counter affidavit. According to learned counsel for the 3rd respondent, the alleged building permission obtained by the petitioner is vague, it does not contain the property details, where the proposed building was sought to be constructed. He further submits that he is the owner of the property and constructed building which already exists and that he has not undertaken any new construction.

3. When the matter is taken up, learned Standing Counsel produced a copy of the notices issued and submitted that appropriate action is taken. According to learned Standing counsel on 30.12.2014 notice under Section 228 (1) & (2) of Andhra Pradesh Municipalities Act, 1965 (for short 'the Municipalities Act') was issued. The notice alleges unauthorized construction of residential building by the 3rd respondent and was at the stage of raising of walls. The said notice directs the 3rd respondent to show cause as to why appropriate action should not be taken. Thereafter notice under Section 228 (3) of the Municipalities Act was issued on 19.01.2015 confirming the earlier notice. However, no further steps are taken in pursuant to the said notice.

4. Learned counsel for the 3rd respondent submits that the 3rd respondent has filed his explanation to the notice dated 30.12.2014 and he has not received any further notice after the notice dated 30.12.2014. Learned counsel also submits that no illegal construction is made. The allegations made in the notice is false and frivolous.

5. Be that as it may, as seen from the prayer sought in the writ petition, the

grievance of the petitioner in the writ petition is that inspite of complaining to the Municipality of alleged illegal construction by the 3rd respondent, no action was taken and therefore, this writ petition is filed.

6. According to the instructions furnished to the learned Standing counsel and the copies of the notices made available to the Court today, it is seen that action was initiated in accordance with Section 228 of the Municipalities Act. Therefore, it is no more valid to contend that no further action is taken by the Municipality on the complaints made by the petitioner. Whether notices were validly issued, whether the 3rd respondent has valid defence, whether 3rd respondent occupies the building which was already constructed and the question of obtaining fresh permission, whether the property belongs to the petitioner or the 3rd respondent, and whether there are interse disputes regarding the claim made by the petitioner, are the matters which require the petitioner and 3rd respondent to work out independently. In so far as the prayer sought in the writ petition is concerned, in view of the notices issued on 30.12.2014 and 19.01.2015, the cause in the writ petition does not survive.

7. Having regard to the above observations, this writ petition is disposed of, leaving it open to the Municipality to take further course of action as warranted by law. The rights and obligations of the petitioner as well as 3rd respondent are preserved and they are entitled to work out their remedies as available in law. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

24th August, 2015.
Rds

P.NAVEEN RAO,J