

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.16213 of 2015

Dated : 10.06.2015

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Between:

Aqeel Hussain Junaidi, S/o.Late Azmath Hussain Junaidi,

Aged about 40 yrs, Occu : Government Servant,

R/o.H.No.17-9-616, Chowni Nade Ali Baig,

Yakuthpura, Hyderabad, T.S.

.. Petitioner

And

The Commissioner,

GHMC, Having office at Tankbund,

Circle IV, Hyderabad & 2 others

.. Respondents

This Court made the following :

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ORDER :

The petitioner claims that his grandfather by name late Yaseen Hussain Junaidi, was the owner and possessor of house bearing M.No.17-9-616 & 617 admeasuring 2400 Square yards situated in Chowni Nade Ali Baig, Yakuthpura, Hyderabad. He was also owner of agricultural lands to an extent of Ac.74.28 guntas in Survey Nos.169 to 173 of Amenapur Village, Patancheru Mandal, Sanga Reddy District. There is an internal dispute regarding partition and separate possession and enjoyment of properties of the grandfather. The petitioner and other family

members instituted O.S.No.76 of 2007 on the file of II Additional Chief Judge, City Civil Court, Hyderabad. The 3rd respondent herein was one of the defendants in the said suit. The plaintiff therein also filed I.A.No.780 of 2007 wherein, the Court has granted an order of status quo on 23.02.2007. According to the petitioner the said order of status quo is still subsisting. The suit is transferred and now pending consideration on the file of XII Additional Chief Judge, City Civil Court, Hyderabad. While so, alleging that the 3rd respondent herein is trying to obtain sanction plan for construction of house, this writ petition is instituted.

2. The averments in the affidavit filed in support of the writ petition would go to show that no such sanction was accorded. Regarding according sanction to construct a building on private property, the Hyderabad Municipal Corporation Act as well as the Rules framed therein, have laid out detail procedure and guidelines. Thus, when an application is filed for construction of building, the same is required to be followed and permission be accorded. It is within the competence of the hierarchy of officers of GHMC, dealing with such application and it cannot be presumed that they would not take proper decision as warranted by law even before a decision is taken. This Court can go into the correctness or otherwise of such decision only when such a decision is taken and no statutory remedy of appeal is available.

3. In the instant case, apparently, there is an *inter se* dispute among the family members. The 3rd respondent herein is one of the family members and the order of status quo is in force. Thus, if building permission is obtained by the 3rd respondent in violation of the said order of status quo or if the Municipal Corporation grants permission for construction of building contrary to any statutory provision and the Rules made there under, the petitioner can work out his remedies as enjoined upon, in accordance with law. Thus, at this stage, it is premature for this Court to go into the issue of granting building permission. The petitioner can not avail the remedy under Article 226 of the Constitution of India on the same subject when the O.S.No.76 of 2007 is pending consideration by competent Court. Therefore, the Writ Petition is not maintainable.

4. Accordingly the Writ Petition is dismissed. There shall be no order as to costs.

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

_____ **P.NAVEEN RAO,J**

10th June, 2015

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