

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 2986 of 2012

ORDER :

The petitioner is the absolute owner and possessor of Plot No.5 in Sy.Nos. 4, 5 and 8 admeasuring 262.58 sq.yds at Pothireddypalli Village, Sangareddy Mandal, Medak District, having purchased the same from A.P. Housing Board, Hyderabad vide sale deed dated 08.02.2008 for valuable consideration. The petitioner applied for permission to construct a house and vide proceedings No.2119/2011-12, dated 25.11.2011 permission was accorded for construction of ground plus 2 floors with two portions in each floor and that the petitioner could not construct the 2nd floor due to insufficient funds. Thereafter, the Panchayat Secretary of Pothireddypally village had issued a notice to the petitioner on 19.12.2011 stating that the petitioner is constructing cellar in deviation to the sanctioned plan. The petitioner sent reply on 25.01.2012 to the respondent stating that entire ground floor is meant for parking and not for construction of any cellar. The petitioner had applied for revised sanction plan as envisaged under Rule 29 of A.P.Gram Panchayath (Land & Building) Rules 2002 to the respondent. However, the respondent, without visiting the site had issued impugned show-cause notice dated 30.01.2012 to show-cause within 7 days from the date of receipt of the notice as to why an action for demolition should not be initiated against the construction i.e., Cellar under Rule 12 & 33 of A.P.G.P.(Land Building) Rules, 2002. Aggrieved by the same, the present writ petition is filed.

2. Heard Sri C.Pratap Reddy, learned counsel for the petitioner and learned Government Pleader for Panchayath Raj.

3. This Court, by order dated 07.02.2012, while ordering notice before admission, granted interim order, which reads as follows:

“Heard Sri C. Pratap Reddy, learned counsel for the petitioner

and Smt. V. Yashoda, learned Assistant Government Pleader for Panchayat Raj and Rural Development for the respondent.

The impugned show cause notice dated 30.1.2012 was issued to the petitioner by the respondent primarily against the construction of Cellar without appropriate permission. Sri C. Pratap Reddy, learned counsel submitted that the petitioner is applying for revised permission and approval of revised plan to enable provision for parking in the building being constructed as per the original sanctioned plan. Sri Pratap Reddy also submitted that a reasonable time may be granted to respondent to the impugned show cause notice.

The petitioner is granted a week's time from today for submission of his explanation to the show cause notice dated 30.1.2012 in question and also to submit any request for grant of revised permission and approval of revised plan. The respondent shall cause such explanation and any such application for revised permission and approval of revised plan processed and disposed of on merits, in accordance with law within 30 days thereafter and no steps for demolition of the subject construction shall be taken by the respondent till expiry of one week from the date of communication of the orders on the explanation of the petitioner and request for revised permission and approval of the revised plan."

Learned Government Pleader for Panchayath Raj on instructions submits that in pursuant to interim orders of this Court dated 07.02.2012 in W.P.M.P.No.3744 of 2012, the respondent addressed letter dated 27.06.2012 to the Commissioner, HMDA, Shankarpally, Ranga Reddy District, for taking necessary action. He has also produced letter dated 27.06.2012.

Since the proceedings are pending before the Commissioner, HMDA, Shankarpally, Ranga Reddy District in pursuant to interim orders of this Court dated 07.02.2012, the Commissioner, HMDA, Shankarpally, Ranga Reddy District, is directed to consider the explanation of the petitioner to the impugned show-cause notice, as per law and take action accordingly.

With the above direction, this writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous applications, if any pending in this Writ Petition, shall stand dismissed.

A.RAJASHEKER REDDY, J

08.09.2015.

Note: Communicate
this order to the Commissioner,
HMDA, Shankarpally, R.R.District.

B/o.KVS

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 08-09-2015

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