

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.23499 OF 2012

ORDER

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This writ petition is filed stating that petitioners have purchased vacant site in an extent of 1143 sq.yards and 1452 sq.yards in RS.No.551/1 of Gollapudi Village, Vijayawada, Krishna District under registered dale deeds for valuable consideration. While so, the petitioners approached the respondent authorities and made an application dated 15.12.2005 along with plan for construction permission in the above site and paid the requisite fee. But the authorities neither granted nor refused the permission for construction of building. Thereafter, petitioners made another representation dated 16.03.2006. Even then, the petitioners were not accorded permission. After the stipulation of 90 days from the date of his application, the petitioners proceeded with the construction and completed the same under deemed provision under Section 14(5) of A.P. Urban Areas (Development) Act, 1975 by investing huge amounts. When the construction is under progress, the official respondents threatened to demolish the structures stating that same is constructed without permission. Against the same, petitioners filed W.P.No.6329/2006 wherein this Court granted interim orders, not to demolish the structures and the said writ petition was disposed on 10.03.2011 with a direction to the 1st respondent to dispose of the application dated 15.12.2005 and pass appropriate orders thereon in accordance with law. Until such decision is taken and communicated to the petitioners, status quo as on date shall be maintained by both the parties. It is further submitted that the Government has brought a scheme to streamline the unauthorised constructions in Andhra Pradesh by issuing G.O.Ms.No.901 (M.A. & Urban Development (MI) dated 31.12.2007 by collecting the penalization fee from the respective owners. Accordingly, petitioner made an application dated 30.04.2008 to the 1st respondent stating that he is ready to pay the penalization fee. But the 1st respondent rejected the application of the petitioner vide order dated 31.12.2010. Aggrieved by the same, the petitioner preferred an appeal on 10.01.2012 raising several grounds, under Rule 11 of A.P. Regulation and Penalization of Unauthorizedly Constructed Buildings and Building Constructed

in Deviation of the Sanction Plan Rules, 2007. Pending the said appeal, the respondents are threatening to demolish the structures raised by the petitioners. Aggrieved by the same, the present writ petition is filed.

Heard the learned counsel for the petitioners, Smt K. Manideepika, learned Standing counsel for the 1st and 2nd respondent, Sri Ravi Cheemalapati, learned counsel for the 3rd respondent and Sri N.Ravi, learned counsel for unofficial respondents.

Learned Standing counsel for the 1st and 2nd respondents submits that the writ petition is misconceived stating that the Grampanchayat has already issued notices to the petitioners on 19.02.2010 and 16.10.2010 respectively, directing them not to proceed with further constructions and also to remove the illegal constructions made. She also submits that petitioners filed W.P.No.23499 of 2012 and 33564 of 2012 and obtained status-quo order on 31.07.2012 and 30.10.2012 respectively, because of which, the respondents could not take further action against the petitioners. It is further stated that petitioners have not made any application seeking permission for building construction before V.G.T.M, but have made applications seeking regularisation of illegal constructions. After careful examination of the said applications, the V.G.T.M. has rejected the request of the petitioners.

The fact that petitioners have not made any application for construction of building is not disputed and the application made for regularization of the building constructed is rejected vide order 31.12.2010 is also not in dispute. Since the petitioners stated that they have filed an appeal on 10.01.2012, it is for the appellate authority to dispose of the same by considering the grounds raised by the petitioners. Once the petitioners availed alternative remedy of appeal, the petitioners cannot seek the same relief by filing writ petition simultaneously.

Since this Court already granted status quo order on 30.07.2012, I deem it appropriate to direct for the disposal of the appeal filed by the petitioners within a period of four (4) weeks from the date of receipt of copy of this order by considering the pleas raised by the petitioners and after issuing notices to the petitioners. Till disposal of the appeal, status quo granted on 30.07.2012 shall be continued. Further action can be initiated after disposal of appeal

basing on the out come of result in appeal, since the 3rd respondent made complaint against the illegal constructions made by the petitioner and also filed writ petition.

With the above direction, the writ petition is disposed of. There shall be no order as to costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 22.06.2015

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