

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.20139 of 2015

Dated : 03.07.2015

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Between:

Smt Mandapelli Malleshwari,
W/o.Late Mallaiah, Aged 48 yrs,
Occu : Household,
R/o.CCC Colony, Naspur, Mancheria Mandal,
Adilabad District

.. Petitioner

And

State of Telangana,
Rep., by its Principal Secretary,
Municipal Administration and
Urban Development Department,
Secretariat, Hyderabad & 2 others

.. Respondents

This Court made the following :

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ORDER :

According to the petitioner, her husband was owning land to an extent of Ac.1.09 guntas in Survey No.480/4, Garimilla Village, Mancherial Mandal, Adilabad District. A lay out was formed and small house plots were made and some plots were sold. Plot Nos.1 to 4 admeasuring 840 square yards was given as gift to the petitioner by her husband. The petitioner is in possession and enjoyment of the said extent of land. She is also paying vacant land tax to the 2nd respondent and built a small shed in the said plots. The 3rd respondent is the owner of Plot No.6 having purchased the same vide registered document No.3209/2004 dated 13.05.2004. The petitioner alleges that the 3rd respondent started interfering with the possession by damaging the compound wall. The 3rd respondent obtained permission for construction of a building. Permission was granted by the Municipality on 27.11.2014. The said permission was vague and does not contain the plot number and by taking advantage of the non- description of plot number in the said permission, the 3rd respondent is encroaching into the land owned by the petitioner and constructing the house in the petitioner's land. Complaining of the same, the petitioner filed representations before the competent authority. But so far no action is taken and on the contrary, the 3rd respondent continued to undertake construction of the building. Hence, this writ petition.

2. Learned counsel for the petitioner contends that the Municipality erred in granting such vague permission and unnecessarily induced the 3rd respondent to undertake illegal construction. He also submits that it is also illegal on the part of the Municipality in not acting on the complaint of the petitioner and to verify the genuineness on the claim made by the petitioner. It is also illegal on the part of the Municipality that without specifying the details of the plot, permission was granted.

3. As seen from the averments made in the affidavit filed in support of this writ petition, admittedly the 3rd respondent is the owner of Plot No.6, obtained building permission and undertaking construction. Whether the 3rd respondent is constructing the building after obtaining permission in Plot No.6 or has encroached into the Plot Nos.1 to 4 of the petitioner and undertaking construction is a disputed question and cannot be gone into while looking at the relevant sale document/gift deed and the photographs filed along with the writ petition. A bare look at the description of the property in the two relevant

documents, both plots have facing of 33 feet road. They also show a road parallel to the plot where the house is now under construction. As the petitioner disputes the right of the 3rd respondent to undertake construction on the plot other than plot owned by her, she has to establish by due process in appropriate court under civil law. In exercise of power of judicial review Under Article 226 of the Constitution of India, this Court cannot go into the *inter se* dispute of private persons with reference to the extent, ownership and identification of boundaries of respective properties. Unless the petitioner establishes that illegally the 3rd respondent encroached into the plot of the petitioner, it cannot be said that the Municipality acted illegally in granting permission to the 3rd respondent, more so, when the 3rd respondent owns a plot in the same lay out. Hence, no direction as sought for by the petitioner can be granted.

4. Accordingly, the writ petition is dismissed, leaving it open to the petitioner to work out her remedies as available in law. There shall be no order as to costs.

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

03rd July, 2015
Rds

P.NAVEEN RAO,J