

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.41004 of 2015

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17.12.2015

Between:

Shaik Abdul Aziz

.. Petitioner

and

The State of Telangana,
represented by its Principal Secretary,
Municipal Administration and Urban Development Department, Hyderabad
and others

.. Respondents

Counsel for the petitioner: Mr.G.Sundaresan for Mr.P.Sajan Kumar

Counsel for respondent No.1: Assistant Government Pleader
for Municipal Administration and Urban Development (TS)

Counsel for respondent No.2: --

Counsel for respondent No.3: Mr.Y.Hemachandra

Counsel for respondent Nos.4 and 5: --

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The Court made the following:

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ORDER:

Feeling aggrieved by the grant of building permission in favour of respondent Nos.3 to 5 by respondent No.2 Corporation, the petitioner filed this writ petition.

Upon hearing the learned counsel for the petitioner and perusing the record, this Court is of the opinion that no interference is warranted with the grant of building permission by respondent No.2 Corporation merely because of the fact that the suit filed by the petitioner against respondent Nos.3 to 5 for declaration of title is pending before the competent civil Court. It is trite that mere grant of building permission does not amount to respondent No.2 Corporation recognizing the title of respondent Nos.3 to 5. Before granting building permission, all that respondent No.2 Corporation needs to be satisfied is whether the applicant thereof is in lawful possession of the property and he has *prima facie* title thereon. From the fact that respondent No.2 Corporation has granted building permission to respondent Nos.3 to 5, it is reasonable to presume that it was satisfied on both the above aspects. Having failed to secure an interim order against respondent Nos.3 to 5 in the pending suit, the petitioner cannot be permitted to litigate by availing a public law remedy for questioning the grant of building permit in favour of respondent Nos.3 to 5. If the petitioner has a strong *prima facie* case and can satisfy the civil Court on the elements of balance of convenience and irreparable injury, it can secure an order preventing respondent Nos.3 to 5 from raising construction in pursuance of the building permission from the civil Court, in which the suit is pending.

For the aforementioned reasons, I do not find any reason to interfere with the building permission granted by respondent No.2 Corporation in favour of respondent Nos.3 to 5. The petitioner is

entitled to avail appropriate interim relief in the pending suit against respondent Nos.3 to 5 notwithstanding the fact that respondent No.2 Corporation has granted the building permission in their favour.

Subject to the liberty given to the petitioner as above, the Writ Petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.52926 of 2015 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

17th December, 2015

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