

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.16563 of 2015

Date: 29.06.2015

Between:

Sri K.Sadasiva Rao s/o. K.V.Subba Rao, Aged about 70 years,
Occu: Retd.Govt.Servant, R/o.Flat No.501, Vaishali Apartment,
Dharam Karan Road, Ameerpet, Hyderabad and others.

.... Petitioners

AND

The State of Telangana, rep.by its Principal Secretary,
Municipal Administration and Urban Development Department,
Secretariat Buildings, Hyderabad and others.

.. Respondents

The Court made the following:

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ORDER:

With the consent of learned counsel for the petitioner as well as learned counsel for the respondents, this writ petition is disposed of at the admission stage.

2. Heard learned counsel for the petitioner and the learned counsel for the respondents.

3. Petitioner claims to be the owner of the land bearing plot Nos.14, 15, 16, 27, 28 and 29 in Sy.No.21(P) of Madeenaguda, Serilingampalli Mandal, Ranga Reddy District. They applied permission for construction of building with stilt and five floors and said permission was granted to the petitioners on 24.03.2015. By order dated 21/22.04.2015, the said permission was kept in abeyance. Aggrieved thereby, this writ petition is instituted.

4. Learned counsel for the petitioners submits that before issuing this order, no notice or opportunity was given to the petitioners. Learned counsel further submits that there was *inter se* dispute between the petitioners and the 4th respondent. The 4th respondent and others filed O.S.No.173 of 2014 before Additional Junior civil Judge, Kukatpally at Miyapur. In I.A.No.428 of 2014 in O.S.No.173 of 2014, ad-interim injunction was granted on 17.09.2014. Aggrieved thereby, petitioners filed a petition to vacate the said orders and accordingly the same was vacated on 28.10.2014. Aggrieved thereby, the 4th respondent filed C.M.A.No.193 of 2014 before the III Additional District Judge, Ranga Reddy District and the same was dismissed on 20.04.2015. Thus, the ad-interim orders so granted on 17.09.2014 is not subsisting. He further submits that in fact by the time the petitioners submitted the application for grant of building permission, no such injunction was in force and, therefore, when the building permission was granted on 24.03.2015, it cannot be said that they had suppressed this fact. Learned counsel further submits that if only opportunity was given to them, they would have explained with reference to the title claimed by the 4th respondent. Petitioners submitted detailed explanation on 30.04.2015 and the same was not considered and the abeyance order was not revoked.

5. Learned counsel appearing for the 4th respondent submits that this is an unapproved layout. Therefore, by relying on Rules notified by G.O.Ms.No.902, Municipal Administration and Urban Development (M1) Department, dated 31.12.2007, the 4th respondent submitted application for regularisation of unapproved layout plots bearing Nos.14, 15, 16, 28 & 29. Accordingly, orders are passed on 23.07.2012 granting such regularization. These orders are still in force. Aggrieved by the said orders, petitioners filed W.P.No.9961 of 2015. No interim orders are passed in the said writ petition and the same is pending for consideration. He further submits that aggrieved by the orders in C.M.A.No.193 of 2014, C.R.P.(SR).No.13230 of 2015 is filed and the same is pending

for consideration by this Court. He further submits that petitioners suppressed the crucial facts and the fact that the regularization was issued in favour of the 4th respondent, petitioners are not entitled to undertake construction and order impugned validly passed.

6. Learned standing counsel submits that there was no illegality in passing the order impugned. The facts reflected itself justify the decision taken. However, learned standing counsel does not dispute that no notice was issued to the petitioners before passing such order.

7. Admittedly, petitioners were granted building permission on 24.03.2015. By virtue of granting such permission, right is accrued to them. When the competent authority entertains the complaint against such building permission granted, the immediate requirement is to put the affected persons on notice and give an opportunity of hearing before taking an adverse decision. On the contrary, the authority suo-moto acted upon the complaint given by the 4th respondent herein and passed orders keeping the orders in abeyance. Such action of the respondent authority is illegal. The entitlement of the petitioners to construct a building on the property claimed by them is denied by the said order.

8. Having regard to the same and as learned counsel agreed, the writ petition is disposed of by following order:

The proceedings dated 21/22.04.2015 impugned in the writ petition shall be treated as show-cause notice and explanation filed by the petitioners on 30.04.2015 shall be considered. It is open to the petitioners to make additional submissions in support of the said representation dated 30.04.2015. On receipt of the said explanation, the Commissioner shall put on notice the 4th respondent herein. After affording due opportunity to them, the Commissioner shall take appropriate action as warranted by law. Till the decision is taken, petitioners shall not undertake any further construction of the building. The petitioners shall file additional reply, if so advised, within a period of one week. The Commissioner shall put the 4th respondent on notice for appearance and filing of written submissions by fixing a date. The date may be informed in advance to both the parties for hearing and after conclusion of hearing, the Commissioner shall pass appropriate orders as warranted by law. The entire exercise shall be completed within six weeks from the date of receipt of a copy of this order.

9. Miscellaneous petitions if any pending in this writ petition shall stand closed. There shall be no order as to costs.

Date : 29.06.2015
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