

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

WRIT PETITION NO.38850 OF 2013

DATED:09-12-2015

Between:

M. Bhuvaneswari ... Petitioner

And

The Government of Andhra Pradesh
Rep. by its Principal Secretary
Municipal Administration
Secretariat Buildings
Saifabad
Hyderabad
and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. T.C. Krishnan

COUNSEL FOR RESPONDENT NO.1: G.P. for Municipal Administration
(AP)

COUNSEL FOR RESPONDENT NOs.2 & 3: Mr. Ancha Panduranga
Rao,

Standing Counsel

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to declare the action of respondent Nos.2 and 3 in not allowing the petitioner to proceed with construction in accordance with the sanctioned plan vide BA No.578/0/2/62, dt.2.6.2012, in respect of premises bearing Old D. No.14/15B and New D. No.16-I-370, Madvapathivari Agraharam, Near Trunk Road, Nellore, (hereinafter called 'the subject property') as illegal and arbitrary.

The petitioner averred that she has purchased the subject property on 09.6.1977 and approached respondent Nos.2 and 3 with an application for sanction of building plan for constructing ground + 1 floor. That on 02.6.2012 respondent No.2 has approved the building plan and while the building was under construction, respondent No.2 has issued notice dt.21.11.2013 under Sections 452 and 461 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act') wherein it was alleged that the petitioner is raising second floor without permission and she was directed to stop further construction and give explanation within seven days from the date of receipt of the notice why the unauthorized construction made by her shall not be removed. That the petitioner submitted her objections on 23.12.2013 denying the allegation that she is raising the construction on the second floor. The grievance of the petitioner is that without passing further orders, respondent Nos.2 and 3 have been interfering with the construction being carried on by her.

No counter affidavit is filed on behalf of respondent Nos.2 and 3.

A perusal of the record shows that a legal notice was caused by the petitioner on 23.12.2013 and within one week thereafter, she has filed the present writ petition evidently to preempt further action by respondent Nos.2 and 3. If the petitioner has not been raising second floor and has been constructing the building strictly in accordance with the sanctioned plan, there could be no reason for respondent Nos.2 and 3 to have issued

the impugned notice. Be that as it may, as no order under Section 452(2) of the Act has been passed, no cause of action had arisen to the petitioner to approach this Court by invoking the extraordinary jurisdiction of this Court.

Therefore, the writ petition is dismissed with a direction to respondent No.2 to pass an appropriate order under Section 452(2) of the Act within one month from the date of receipt of this order and communicate the same to the petitioner. Needless to observe that further action by respondent Nos.2 and 3 with respect to the alleged illegal construction shall depend upon the nature of the order that may be passed by respondent No.2.

As a sequel to dismissal of the writ petition, W.P.M.P. No.48292 of 2013, filed by the petitioner for interim relief, is disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

09-12-2015

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