

**THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

**WRIT PETITION No.7955 OF 2015**

**ORDER:**

This writ petition is filed by the petitioners seeking a writ of Mandamus to declare the action of the 2<sup>nd</sup> respondent staff in interfering with the construction work on the petitioners land bearing No.50-44-10, Sy.No.13/3, Resapuvanipalem, TPT Colony, Nakkalavanipalem, Division No.10, Visakhapatnam as per the sanctioned plan without show cause notice and without committing any deviation or illegality as illegal and arbitrary and consequently direct the 2<sup>nd</sup> respondent staff not to interfere with the petitioners' construction.

The grievance of the petitioners is that their father late Sri Erusu Nookaiah @ Nookaiah Reddy is the absolute owner and pattedar to the extent of 0.17 cents or 822.28 sq. yards or 687.967 sq. mtrs., situated in TPT Colony, Near Nakkavanipalem in Sy.No.13/3 within the limits of Greater Visakhapatnam Municipal Corporation and after the death of their father, petitioners and their family members became joint owners of the above said land. It is further stated that their mother E.Chinnaammadu and their sisters Raghuramreddy Lakshmibai, Bora Ammaji, Devi Lakshmi and Bora Anuradha relinquished their share to the petitioners vide registered relinquish deed No.2732 of 2012 dated 14.02.2012. Later the petitioners applied for building permission on 16.10.2012 under Sections 428 and 433 of Hyderabad Municipal Corporation Act (for short 'the Act') and A.P. Building Rules as per G.O.Ms.No.168 Municipal Administration, dated 07.04.2012. After conducting preliminary investigation, the Town Planning Department of GVMC, issued building permission vide permit No.14215 of 2012, vide file No.CSC/TP/2013 dated .02.2014. Later as per the directions of the 2<sup>nd</sup> respondent vide endorsement No.VA No.14215/2013/Zone II/G3, dated Nil.10.2013 petitioners paid the fee for proposed construction of RCC roof stilt floor for parking + Ground + four upper floors residential apartment building bearing No.50-44-10, Sy.No.13/3, Resapuvanipalem, TPT Colony, Nakkalavanipalem, Division No.10, Visakhapatnam, and approved

plan was issued in the month of February 2014. As per the sanctioned plan, the petitioners started construction work without any deviation and when the construction is at the stage of 2<sup>nd</sup> slab, without any reason and without serving any notice or complaint, the subordinates of 2<sup>nd</sup> and 3<sup>rd</sup> respondents are daily visiting the petitioners' site and creating obstacles in their day to day work and preventing them from carrying out their work. Aggrieved by the action of the respondents in asking the petitioners to stop the construction, the present writ petition is filed.

Heard Sri K.L.N.Swamy, learned counsel for the petitioners and learned Government Pleader for Municipal Administration appearing for the first respondent and Sri S.Laxminarayana Reddy, learned counsel for respondents 2 and 3.

It is submitted by the learned counsel for the petitioners that as long as the permission granted to the petitioners is valid and subsisting, respondent authorities cannot stop the construction.

On the other hand, learned standing counsel for 2<sup>nd</sup> and 3<sup>rd</sup> respondents submits that since complaint is received that the petitioners obtained permission fraudulently, notice under Section 450 of the Act was issued on 24.02.2015 for taking necessary action. It is not in dispute that petitioners were granted building permission on 20.02.2014. Though the issuance of the notice is disputed by the learned counsel for the petitioners, since it is stated that the same was issued on 24.02.2015, it is open for the respondents to take action under Section 450 of the Act, if the conditions under the said Section are satisfied and the petitioners to submit explanation to the said notice issued on 24.02.2015 and take action accordingly. As long as petitioners' building permission is subsisting, respondent authorities cannot interfere with the petitioners' construction. However, the respondent authorities can take action in accordance with law since already notice is issued. If the petitioners do not cooperate, it is open for the respondent authorities to take action as per law.

With the above direction, the writ petition is disposed of. No order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition shall stand dismissed.

**25.03.2015**

**Note:**

Issue C.C. within two days.

B/o. Rns

**THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

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**Date:25.03.2015**

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