

HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.24451 OF 2012

ORDER:

This Writ Petition is filed by the petitioner seeking to issue a writ of mandamus to declare the action of the 1st respondent in issuing proceedings in BA No.12211/2011/ACP-11/G1, dated 02.01.2012 with approved plan in respect of building bearing D.No.50-14-5, Plot No.37 & 38 in S.No.33/1, Resapuanipalem, Rajendranagar, Ward No.13, Visakhapatnam, without considering the representation, dated 03.10.2011, along with the injunction order in CMP No.7709/2000 in S.A. No.594 of 1999 submitted by the petitioner, as illegal and arbitrary and consequently set aside the proceedings in BA No.12211/2011/ACP-11, dated 02.01.2012 issued by the 1st respondent.

The case of the petitioner is that his father obtained decree in a suit for specific performance of an agreement of sale against one Abdul Razak and others in respect of certain property. Against the same, the said Abdul Razak preferred an appeal. The appeal was also dismissed. Challenging the same, Abdul Razak and others filed Second Appeal before this Court. During the pendency of the second appeal, Abdul Razak and others sold the subject property to the respondents 2 and 3. When the respondents 2 and 3 started making constructions, the father of the petitioner filed CMP No.7708 of 2000 in S.A. No.594 of 1999 before this Court and obtained injunction. The respondents 2 and 3 were also impleaded in the Second Appeal.

While so, the respondents 2 and 3 started construction in the said property and when the petitioner and his family members objected the same, the respondents 2 and 3 stated that they have obtained permission from the 1st respondent for making constructions in the said property. Therefore, the petitioner submitted a representation to

the 1st respondent on 03.10.2011 along with the injunction orders. But, without considering his representation, the 1st respondent issued impugned proceedings along with approved plan for construction of the building to the respondents 2 and 3. Aggrieved by the same, the present writ petition is filed.

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

Now, it is submitted by the learned counsel for the respondents 2 and 3 that the construction of the building has been completed and the Appeal has been remanded to the Civil Court to the extent of considering the rights of the respondents 2 and 3.

Since the Appeal is remanded to the extent of considering the rights of the respondents 2 and 3 and since the litigation is pending before the Civil Court, the grant of permission for construction of the building to the respondents 2 and 3 will be subject to the outcome of the civil litigation.

With the above observation, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A. RAJASHEKER REDDY, J

August 17, 2015.
KTL