

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

WRIT PETITION NO.11209 OF 2014

DATED:23-11-2015

Between:

P. Eswaramma ... Petitioner

And

State of A.P.,

Rep. by Principal Secretary

Municipal and Urban Development

Secretariat

Lower Tank Bund

Hyderabad

and another ... Respondents

COUNSEL FOR THE PETITIONER: Mr. Rajagopallavan Tayi,

for Mrs. Madhavi Priya Mantena

COUNSEL FOR THE RESPONDENTS: -

THE COURT MADE THE FOLLOWING:

ORDER:

-

This writ petition is filed for a mandamus to set aside endorsement vide B.A. No.10794/2013/ACP-III/G1, dt.30.03.2013, of respondent No.2 whereby it has rejected the petitioner's application for building permission.

I have heard Mr.Rajagopallavan Tayi, learned counsel, representing Ms. Madhavi Priya Mantena, learned counsel for the petitioner, and Mr. S. Lakshmi Narayana Reddy, learned Standing Counsel for respondent No.2 - Corporation.

A perusal of the impugned endorsement shows that the petitioner's application for grant of building permission was turned down only on the ground that a civil suit in O.S. No.121 of 2011 regarding ownership and boundary dispute is pending.

The petitioner filed a copy of order dt.8.7.2011 in I.A. No.171 of 2011 in O.S. No.121 of 2011 on the file of the Principal Junior Civil Judge, Visakhapatnam, a perusal of which shows that on being satisfied with the *prima facie* case and the balance of convenience, injunction was granted in favour of the petitioner by the Civil Court. In my opinion, mere pendency of a civil suit would not *ipso facto* constitute a constraint on respondent No.2 to grant building permission. All that respondent No.2 needs to consider is *prima facie* title of the applicant over the property in respect of which building permission is sought. The impugned endorsement suggests that no effort has been made by respondent No.2 to examine the *prima facie* title of the petitioner.

In this view of the matter, the impugned endorsement is set aside. Respondent No.2 is directed to re-consider the petitioner's application taking into consideration the findings rendered by the Civil Court in I.A. No.171 of 2011 in O.S. No.121 of 2011 and also the *prima facie* title of the petitioner within one month from the date of receipt of this order and communicate the same to the petitioner.

As a sequel to disposal of the writ petition, W.P.M.P. No.14123 of 2014 shall stand disposed of as infructuous.

---

C.V. NAGARJUNA REDDY, J

23-11-2015

bnr

