

THE HON'BLE SRI JUSTICE A. RAJASEKHAR REDDY

WRIT PETITION No.3278 of 2005

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Between:

Tadepalli Indira Devi

PETITIONER

AND

1. Vijayawada-Guntur-Tenali Urban Development Authority, rep. by its Vice Chairman, Governorpet, Vijayawada-520 002, and others.

RESPONDENTS

ORDER:

This writ petition is filed challenging the action of respondent Nos.1 and 2 in not taking action in respect of the illegal constructions made by respondents 4 and 5, in the property bearing R.S.Nos.125/1, B, 134/1 and 2 of Ramavarappadu Gram Panchayat, Vijayawada Rural Mandal, Krishna District, as illegal and arbitrary.

The case of the petitioner is that respondents 4 and 5 obtained sanctioned plan for construction of residential dwelling house consisting of first, second and 3rd floors. When respondents 4 and 5 are making construction of residential apartment complex in deviation of the sanctioned plan, the petitioner got issued legal notice dated 23.06.2004 requesting respondents 1 and 2 to take appropriate action against respondents 4 and 5. Accordingly, the 1st respondent issued notice dated 26.07.2004 under Section 43(1) and Section 42(1) of the A.P. Urban Areas (Development) Act, 1975 (for short 'the Act') calling for explanation as to why action should not be taken for demolition of the construction made in the subject property. As respondents 4 and 5 did not stop the illegal constructions, the petitioner once again filed representations dated 21.09.2004, 11.10.2004 and 04.01.2005 to respondents 1 and 2. As there was no action by the 1st respondent, the petitioner filed the present writ petition.

This Court while admitting the writ petition granted interim direction on 03.03.2005.

A counter affidavit is filed by the 1st respondent stating that since respondents 4 and 5 have deviated zoning regulations, a show cause notice was issued on 26.07.2004 under Section 42 of the Act calling for explanation, pursuant to which respondents 4 and 5

submitted their explanation and that after considering the said explanation the 1st respondent passed final orders on 12.08.2004 for demolition of building. Challenging the said order the 5th respondent preferred an appeal on 13.09.2004 to the Vice-Chairman and the same is pending. The 1st respondent also initiated criminal prosecution against respondents 4 and 5 and they were convicted by the competent criminal Court.

A counter affidavit is filed by the 5th respondent along with W.V.M.P.No.875 of 2005 admitting that a complaint was filed by the 1st respondent before the III Metropolitan Magistrate, Vijayawada and ultimately the matter was placed before the Lok-Adalat at Vijayawada and penalty of Rs.4000/- was imposed for deviation of the approved plan and the said amount was paid settled the matter, which has become final.

The 5th respondent filed W.P.M.P.No.24275 of 2015 on 23.06.2015 stating that the alleged deviations were subsequently regularised and orders were passed regularising the alleged constructions vide proceedings dated 31.12.2012, which were filed along with the W.P.M.P for receiving them as additional evidence.

Heard learned counsel for the petitioner and Smt. K. Manideepika learned Standing Counsel for the 1st respondent and Sri K. Seetaram learned counsel for the 5th respondent.

Since the 1st respondent had already initiated action and passed final orders dated 12.08.2004 for demolition of the building, and pending the same the 5th respondent filed an application for regularisation and proceedings dated 31.12.2012 have been issued regularising the constructions made by the 5th respondent, it cannot be said that the 1st respondent has not taking any action. The grievance of the petitioner in this writ petition stood redressed. If still the petitioner is aggrieved, it is always open for the petitioner to challenge the

proceedings dated 31.12.2012 issued by the Vice Chairman V.G.T.M.

U.D.A in favour of the 5th respondent as per law.

With the above direction the writ petition is disposed of.
Pending miscellaneous petitions, if any, shall stand closed. No order
as to costs.

A. RAJASEKHAR REDDY, J.

16th July, 2015
Js.