

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.28931 OF 2011

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ORDER:

This writ petition is filed challenging the proceedings No.BPS/403/CIR, dated 07.10.2009, issued by the 3rd respondent in favour of 4th respondent regularizing the unauthorized construction made by the 4th respondent, as illegal and arbitrary and contrary to the G.O.Ms.No.901, dated 31.12.2007.

The case of the petitioner is that the 4th respondent, who is neighbor of the petitioner, without leaving any set backs made construction for which the petitioner filed OS.No.1548 of 2007 on the file of the Principle Senior Civil Judge, Ranga Reddy at L.B.Nagar against the respondents and that the said suit is pending. While so, the 4th respondent filed an application before the 2nd respondent for regularization of his construction in terms of G.O.Ms.No.901, dated 31.12.2007. After knowing the same the petitioner also filed WP.No.6272 of 2008 before this Court with a prayer not to regularize the illegal construction made by the 4th respondent and this Court also passed interim order on 08.10.2009 directing the respondents 1 to 3 not to process the application of 4th respondent for regularization of unauthorized construction. But, later the 4th respondent filed his counter and vacate stay petition on 09.08.2011 in the above writ petition contending that the

respondents have regularized the subject building through proceedings dated 07.10.2009. Aggrieved by the said proceedings issued by the respondents 1 to 3, present writ petition is filed.

On the other hand learned counsel for the 4th respondent filed counter saying that having filed the civil suit the petitioner cannot sought same relief in the writ petition and that the earlier writ petition filed by the petitioner was also dismissed as infructuous.

Heard both sides.

The fact remains that petitioner filed civil suit in OS.No.1548 of 2007 against the 4th respondent for declaration that the construction made by the 4th respondent as illegal and in the meanwhile the respondent regularized the said construction of the 4th respondent. By mere grant of regularization, the 4th respondent will not acquire any title. The 4th respondent also takes defence that since the civil suit is pending, writ petition is not maintainable. In view of the same, any grant of regularization will be subject to orders passed in the civil suit filed by the petitioner.

In view of the above I am not inclined to entertain this writ petition and accordingly the writ petition is dismissed. However, regularization will be subject to orders passed in OS.No.1548 of 2007. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any

pending shall stand closed.

A.RAJASHEKER REDDY, J

17.08.2015
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