

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

W.P.No.32937 of 2012

Between:

Alladi Naga Bhushnam

... Petitioner/Appellant (s)

And

The Greater Hyderabad Municipal Corporation
and 5 others

... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 27.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.32937 OF 2012

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ORDER

The case of the petitioner is that he is the absolute owner of the property bearing H.No.30-104/6 on plot No.6, Sy.No.362 at Sainagar, Kanojiduda, Alwal, having purchased the same for valuable consideration through registered sale deed No.3285/98 and has been in possession and enjoyment of the same. While so, in the year 2011, when the petitioner visited the property, he found construction activity going on in his property. With regard to the same, the petitioner made enquires and came to know that the 6th respondent approached the official respondents seeking permission for construction of temple on the property by showing registered Doc.No.4886/2009 obtained from S.Malla Reddy and others. The official respondents without verification of the rights, entitlement and title of the property accorded permission in favour of the 6th respondent for construction of temple vide proceedings dated 14.05.2010, 03.11.2010 and 10.01.2010. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 6th respondent stating that he is the owner and possessor of the property by virtue of a registered sale deed and carrying out the construction after obtaining due permission from the authorities. He further states that the petitioner is not the owner of the property and that the argument of the petitioner that the petitioner came to be the owner of the property by virtue of a General Power of Attorney executed by Khaja Abdul Kareem in favour of Alladi Saraswati vide G.P.A. Document No.368/1981 before the SRO, Secunderabad, is not tenable, inasmuch as the said GPA document does not pertain to the said GPA holder. The respondent further states that he being a bonafide purchaser of the property and constructing the temple after obtaining necessary permissions, the petitioner has got no right on the property and the construction has reached an advanced stage. Further, as O.S.No.2954 of 2005, allegedly filed by the vendors of 6th respondent is said to be pending before the Junior Civil Judge, Ranga Reddy District,

this Court may relegate the parties to the Civil Court.

Learned counsel for the petitioner submits that the 6th respondent proceeded with the construction of temple basing on the proceedings dated 31.03.2003 issued by the RDO executing the sale deed in favour of the vendors of the 6th respondent. But the said order was set aside by the Joint Collector vide orders dated 09.12.2003. Thereafter Mallareddy and others filed W.P.No.3786/2005 wherein this Court granted status-quo pending further orders. In violation of the status-quo orders passed by this Court, the 6th respondent purchased the property. Thereafter the vendors of the 6th respondent filed O.S.No.2954 of 2005 before the Junior Civil Judge, R.R.District, seeking injunction suppressing the fact of obtaining status-quo orders in W.P.No.3786/2005. He also submits that against the interim orders passed by this Court on 26.12.2012, permitting the 6th respondent to carry on constructions, the petitioner filed W.A.No.16/2013 and this Court vide order dated 09.01.2013 granted status-quo pending further orders. Therefore, unless the appeal pending before the Joint Collector is decided, the 6th respondent cannot be permitted to proceed with the construction.

On the other hand, learned counsel for the 6th respondent submits that the very basis of filing the present writ petition is the status-quo orders passed on 01.03.2005 in W.P.No.3786 of 2005 and now when the writ petition itself is disposed of vide order dated 06.04.2015 and status-quo order has been vacated, the 6th respondent cannot be restrained from making further constructions.

When this Court by way of interim order dated 26.12.2012 in WPMP.No.41937 of 2012 in W.P.No.32937 of 2012 permitted the 6th respondent to carry on the constructions, W.A.No.16 of 2013 was filed by the petitioner and the Division Bench of this Court held that unless the rights are adjudicated in the main writ petition, the 6th respondent cannot be permitted to make constructions. W.P.No.3786 of 2005 was allowed

by setting aside the order of the Joint Collector, cancelling the Occupancy Rights Certificate granted by RDO in favour of the 6th respondent. When the very basis of filing the present writ petition is the status quo orders granted in W.P.No.3786 of 2005 and when the same is disposed of and the status quo granted in the writ petition is vacated, the *inter se* rights have to be decided by the Joint Collector only. As on today, the Occupancy Rights Certificate granted in favour of the vendors of the 6th respondent is in subsistence, which is the basis for grant of building permission to the 6th respondent. Whether the 6th respondent has right to make constructions or whether the petitioner is having rights, are all disputed questions of fact, which cannot be resolved in the writ petition. Mere grant of permission in favour of the 6th respondent does not confer title on the 6th respondent and the permission granted by the authorities should always be adjudicated by the proper forum.

In this case, since the appeal is pending before the Joint Collector, if the petitioner is not a party in the appeal, it is for the petitioner to implead himself in the appeal and obtain necessary orders or approach the appropriate forum seeking relief. This Court has held that it cannot adjudicate the disputed questions of fact in the writ petition and more so, for granting permission, the municipal authorities will look into the prima facie title and does not make a roving enquiry for grant of permission.

In view of the above, the writ petition is dismissed. No costs. As a sequel, miscellaneous petitions, pending, if any shall stand closed.

A.RAJASHEKER REDDY,J

Date: 27.07.2015

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