

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT

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WRIT APPEAL No. 698 OF 2015

Date: 14.07.2015

Between:

A. Hanumantha Rao.

... Appellant

And

The Hyderabad Metro Development Authority,
Rep., by its Commissioner, Hyderabad,
& others.

... Respondents

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT**

WRIT APPEAL No. 698 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against the order, dated 02.06.2015, passed in W.P.No.28381 of 2013, whereby the petition has been dismissed.

Writ petition was filed challenging inaction of the 1st and 2nd respondents in stopping the alleged illegal construction commenced by the 4th respondent. In short, case of the appellant is that the 4th respondent is carrying on construction without there being any sanctioned layout and building permission.

Appellant and the 4th respondent are having dispute over the property bearing Sy.No.63 of Nadergul Village measuring Ac.3.05 guntas (for short "the property"). There was a civil suit filed by the 4th respondent against the appellant. In the suit, initially an injunction was granted and in appeal filed by the appellant, the appeal was allowed. Against the judgment passed in the appeal, we are informed, a review petition filed by the 4th respondent is pending. The appellant till this date has not filed any proceedings for adjudication of his rights in the property in dispute before the appropriate Court. From the facts and the prayers in the instant proceedings, it appears that the 4th respondent is in possession of the property. In this backdrop, he invoked the jurisdiction

of this Court under Article 226 of the Constitution of India. It is not in dispute that respondent No.1 is the authority, which is obliged to sanction the final layout, and that as of today it has sanctioned the draft layout and on the basis thereof, respondent No.4 is carrying out construction, after obtaining the permission, in the land in question. In this backdrop, we do not find anything wrong in the order passed by learned Single Judge dismissing the writ petition for the reasons recorded therein. However, while disposing of this appeal, we would only like to observe that under any circumstances respondent No.4 shall not carry out any illegal construction in the land in dispute and if the concerned authorities, in particular, respondent Nos.1 and 2, find or come across any illegal construction they shall take action against such illegal construction forthwith.

With these observations, the appeal is disposed of.

Miscellaneous petitions, if any, shall also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Date: 14.07.2015

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