

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.42088 of 2015

Dated 28.12.2015

Between:

Mootha Shailaja

... Petitioner

and

-
Warangal Municipal Corporation
Rep. by its Commissioner
Warangal, and 3 others.

...Respondents

Counsel for the petitioner: Mr.Mamidi Venu Madhav

**Counsel for respondent No.4: AGP for Municipal Administration
(TS)**

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to declare the action of respondent No.1, in issuing notice under Section 636 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), and directing the petitioner to remove the unauthorised construction raised by him within 24 hours, as unreasonable and arbitrary.

I have heard Mr.Mamidi Venu Madhav, learned Counsel for the petitioner, and Mrs.Pingali Lakshmi, learned Standing Counsel for respondent No.1- Warangal Municipal Corporation.

A perusal of the record shows that respondent No.1- Corporation issued notice under Section 452 (1) and 461 (1) of the Act, on 28-04-2015, alleging that the petitioner has unauthorisedly raised construction on ground floor upto 9 feet without obtaining prior permission from it. The said notice was followed by an order passed under Section 452 (2) of the Act, on 08-07-2015, wherein, while reiterating the above mentioned allegation, it was further observed that the site also falls under FTL/Buffer Zone of a Tank. Thereafter, the impugned notice was issued, on 19-12-2015, calling upon the petitioner to remove the unauthorised construction within 24 hours, failing which, the same will be removed by respondent No.1 at the expense of the petitioner.

At the hearing, the learned Counsel for the petitioner submitted that following the impugned

notice, respondent No.1 has removed a substantial part of the construction raised by his client. He has further submitted that respondent No.3- Gram Panchayat has followed a strange procedure of inviting objections on the application filed by the petitioner for grant of building permission and that, thereafter, it has granted permission. The learned Counsel has, however, fairly conceded that the plot, on which the petitioner has raised construction, falls within the purview of respondent No.3- authority and consequently, respondent No.1 is the competent authority to grant building permission.

The learned Standing Counsel for respondent No.1- Corporation, on instructions, submitted that as the petitioner has failed to obtain building permission from respondent No.1 and raised construction, the latter has started demolition of the building constructed by the former after following the due process of law. He has further submitted that as the plot, over which the petitioner has raised building, falls within the FTL of Chinna Vaddepalli Tank, he is not entitled to be granted building permission.

Admittedly, the petitioner does not hold permission for raising construction and as such, she ought not to have raised the construction. The photographs furnished by the learned Counsel for the petitioner, during the hearing, shows that a part of the petitioner's building has been dismantled and substantial portion of the roof has caved in on account of removal of pillars. The present status of the building as evident from the photographs would show that no further construction of the existing building could be raised unless some of the pillars are re-erected and the cellar is re-laid. In this situation, further demolition of the petitioner's building will serve no purpose till she makes an application and the same is disposed of in accordance with law.

In the light of the above discussion, the petitioner is permitted to make an application for grant of building permission to respondent No.1 within two weeks from the date of receipt of this order. Within four weeks of receipt of such application, respondent No.1 shall hold an enquiry, take a decision thereon and communicate the same to the petitioner. The right of respondent No.1 to

demolish the petitioner's building further would depend upon the decision that may be taken by it on the latter's application. It is made clear that if the petitioner does not make an application within the above stipulated time, respondent No.1 shall be free to proceed with the further demolition process.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.54285 of 2015, filed by the petitioner for interim relief, are disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 28th December, 2015
LUR