

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.34033 OF 2014

DATED:02-11-2015

Between:

Varikonda Vijaya Shankar ... Petitioner

And

The State of A.P.,

Rep. by its Secretary

Municipal Administration

Secretariat

Hyderabad

and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. N. Sridhar Reddy

COUNSEL FOR RESPONDENT NO.1: G.P. for Municipal Administration

COUNSEL FOR RESPONDENT NO.2: Mr. Ancha Panduranga Rao

COUNSEL FOR RESPONDENT NOs.3 and 4: None appeared

COUNSEL FOR RESPONDENT NO.5: Mr. M.S. Prasad, Senior Counsel, for
Mr. Y. Nagaiah

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to declare the action of respondent No.2 in permitting respondent No.5 (wrongly described as respondent No.6 in the writ petition) to proceed with unauthorized construction and inauguration of a Kalyana Mandapam in the premises of Sri Kasturi Devi Gardens, Nellore, SPSR Nellore District, without obtaining permission from the concerned department, as illegal and arbitrary and against the principles of natural justice, and consequently to

direct respondent Nos.2 to 4 to stop unauthorized construction and inauguration of the Kalyana Mandapam.

As the case progressed, several events have taken place the narration of which is unnecessary. Suffice it to note that the petitioner claims to be the General Power of Attorney of his father-in-law, who is no other than the brother of respondent No.5. Before this writ petition was filed, the petitioner's father-in-law has made a representation on 25.10.2014 to respondent No.2, wherein he has claimed that he along with respondent No.5 have constructed the A.C. Kalyana Mandapam in the premises of Sri Kasturi Devi Gardens, Nellore, and the plan approval by the Municipal Corporation, Nellore, is awaited; that five heavy duty generators were installed in the newly constructed A.C. Kalyana Mandapam in Sri Kasturi Devi Gardens, but fire safety arrangements are not made as no objection certificate was not yet granted by the Fire Department; that Pollution Control Certificate was also not obtained by respondent No.5; and that as required permissions from the Municipal Corporation, Fire Department and Pollution Control Board are awaited, respondent No.5 may be directed to stop the inauguration of the Kalyana Mandapam scheduled on 27.10.2014.

At the hearing, it is not disputed that not only that the construction of the Kalyana Mandapam was completed but the same was also inaugurated. Therefore, to a substantial extent, the prayer in the writ petition has become infructuous.

Mr. N. Sridhar Reddy, learned counsel for the petitioner, submitted that since the application for permission was admittedly rejected, respondent No.5 must be prevented from running the Kalyana Mandapam.

It needs to be noted that the writ petition is not filed in public interest. Admittedly, the petitioner's father-in-law and respondent No.5, who are natural brothers and who also had business relations between them have fallen out and the writ petition is the offshoot of the personal disputes between them. The brother of respondent No.5 who is evidently seeking to settle his personal scores is no other than the father-in-law of the petitioner. This Court in exercise of its discretionary jurisdiction under Article 226 of the Constitution of India will not allow any person to settle his personal scores in the guise of violation of law. Moreover, it has come out at the hearing that an application under Building Penalization Scheme (BPS) filed by respondent No.5 is pending.

In the above facts and circumstances of the case, while declining to adjudicate the issues raised by the petitioner on merits, respondent Nos.1 and 2 are directed to dispose of the application stated to have been filed by respondent No.5 for regularization of the constructions within two months from the date of receipt of a copy of this order. Further action regarding the building shall be taken subject to the decision that may be taken by respondent Nos.1 and 2 on the said BPS application.

The writ petition is accordingly disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. No.29571 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

02-11-2015

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