

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

P.I.L.No.306 OF 2014

PC: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

In this Public Interest Litigation, the petitioner challenges building Permit No.32520/HO/WZ/Cir-12/2014 dated 06.03.2014 as illegal and contrary to the Hyderabad Municipal Corporation Act. The petitioner prays for a direction to demolish the alleged illegal construction, along with nala passing through Sy.Nos.62, 68/A, 68/AA at Madinaguda Village, Serilingampally Mandal, Ranga Reddy District, by respondent Nos.4 and 5.

Heard Sri Osman Shareef, learned counsel for the petitioner, Government Pleader for Municipal Administration/respondent No.1, Sri Sampath Prabhakar Reddy, learned Standing Counsel for GHMC for respondents 2 and 3 and Sri Kalyan Chakravarthy for respondents 4 and 5.

The subject matter of writ petition is alleged construction abutting nala passing through Sy.Nos.62, 68/A, 68/AA. The case of petitioner is that the nala passing through the above survey numbers is encroached by respondents 4 and 5 and on account of such encroachment, free flow of water is affected or obstructed. Therefore, according to petitioner, the grant of building permission is illegal and liable to be set aside.

Sri Sampath Prabhakar Reddy, learned Standing Counsel appearing for respondents 2 and 3, contends that the building permit was considered and examined in accordance with the extant rules and the authority on being satisfied that the land for which building permission was sought does not cover Government or nala land, the building permission was granted. He submits that there is no illegality

in the impugned building permit and prays for dismissing the writ petition.

Learned counsel for respondents 4 and 5 submits that from the material available on record, firstly the alleged encroachment of nala is incorrect, secondly on 06.03.2014 the building permit was granted, the building construction is almost completed by respondents 4 and 5 finally and he prays for dismissing the writ petition. With a view to ascertaining whether there is encroachment of nala in Sy.Nos.62, 68/A, 68/AA or not, counsel appearing for builder/5th respondent submits that the officers of Municipal Corporation can inspect the subject land, survey the total extent and in the event further directions are required to be issued to protect the nala, counsel submits that respondents 4 and 5 undertake before this Court to comply with the directives issued by the Municipal Corporation.

We have heard learned counsel for the parties and perused the material available on record. The writ prayer involves consideration of a fact in issue viz., whether the irrigation channel as claimed by the petitioner is passing through Sy.Nos.62, 68/A, 68/AA and/or whether the building permit overlaps or shrinks the plan marked channel in these survey numbers. A finding on this aspect requires inspection of subject land, identify the channel passing through these survey numbers and whether the case on hand merits issue of further directions to respondents 4 and 5 by the Municipal Corporation etc., are well within the jurisdiction of respondents 2 and 3.

Therefore, having regard to these circumstances, we are satisfied that the PIL can be disposed of by this order:

“Respondent No.3 is directed to issue notice to the petitioner and respondents 4 and 5 for undertaking inspection and survey of subject matter of PIL. The 3rd respondent on the appointed day and time undertakes inspection and survey of land covered

by building permit number and also channel passing through Sy.Nos.62, 68/A, 68/AA and in the considered view of 3rd respondent, if further directions/conditions are required to be issued as part of building permit, the 3rd respondent is empowered to issue such directives to respondents 4 and 5, who in turn are under obligation to comply with these directions to protect the channel passing through these survey numbers. The entire exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

PIL is, accordingly, disposed of.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE,
ACJ

S.V.BHATT,

J

Date: 21.12.2015

Lrkm