

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

WRIT PETITION No.39359 of 2015

-
04.12.2015

Between:

Boddu Venkata Santosh Kumar

.. Petitioner

and

The State of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration and Urban Development Department,
Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.Mavidi Rama Rao

Counsel for respondent No.1: Government Pleader
for Municipal Administration and Urban Development (AP)

Counsel for respondent Nos.2 and 3: --

The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to set aside notices, *vide* UCNo.10/2015/TPBO-II(l/c), dated 30.09.2015, and UCNo.11/2015/TPBO-II(l/c), dated 14.10.2015, issued by the Commissioner of respondent No.2 Municipality.

The petitioner has pleaded that he purchased plot admeasuring 484 sq. yds. in survey No.109/6, from one Gadela Chandra Rao & Smt. Gadela Sitayamma on 01.10.2001 by way of sale-cum-General Power of Attorney, *vide* registered sale deed document No.4061/2001 and also purchased plot admeasuring 115 sq. yds. in survey No.109/7, adjacent to the site situated at Padmavathinagar Alivelumangapuram, layout 1st bit, Vizianagaram from the aforesaid persons under registered sale deed document No.4215/2001 on 16.10.2001; that he obtained permission to construct ground plus first floor from respondent No.2, *vide* B.A.No.540/2011/G.2, dated 24.03.2011; that he started construction in the year 2011 and that as he could not secure loans from Banks, he borrowed funds from his close friends and relatives and continued construction by laying slab and procuring all the required material for construction of the building and that the building is nearing completion. The petitioner further averred that some local politicians, who are inimical to his family, prevailed upon respondent No.2, who in turn, has issued the impugned notices under Sections 42(1) and 43(1) of the Andhra Pradesh Urban Area (Development) Act, 1975 (for short 'the Act'), calling upon the petitioner to submit explanation within ten days from the date of receipt of the said notices as to why action could not be taken for removal of the unauthorized construction of ground plus first floor and that the petitioner was also called upon to stop the ongoing construction/development under Section 43(1) of the Act. The petitioner also averred that on receipt of the said notices, he has

submitted a detailed explanation on 18.10.2015 and that without taking a decision thereon, the officials of respondent No.2 have been preventing him from proceeding with the further construction.

Mr.Nimmagadda Venkateswarlu, learned standing counsel for Municipalities (AP) appearing for respondent No.2, on instructions, submitted that except a small extent, which is a private land, the petitioner is raising construction over the DKT land, and that the building permit having expired in the year 2014 itself, the petitioner has been carrying on construction without getting the permit renewed or obtaining a fresh permit. He is, however, not in a position to state whether the petitioner has submitted explanation to the show cause notices or not.

Along with the writ petition, the petitioner has filed a copy of the purported explanation, dated 18.10.2015. However, no proof of submission of his explanation has been produced by the petitioner. Be that as it may, having issued the impugned notices, respondent No.2 has to consider the explanation, if any, filed by the petitioner before taking further action.

Therefore, without expressing any opinion on the merits of the case, the Writ Petition is disposed of with the direction to respondent No.2 to consider the explanation, if any, filed by the petitioner, pass a speaking order and communicate the same to the latter within a period of two weeks from the date of receipt of a copy of this order. As admittedly, the permit granted to the petitioner has expired, till a decision is taken by respondent No.2, the petitioner shall not carry on further construction.

As a sequel to disposal of the Writ Petition, W.P.M.P.No.50766 of 2015 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

04th December, 2015

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