

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

Writ Petition Nos.25426/15; 28423, 32932 & 38988 of 2014

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Dated 19th November, 2015

Between:

K.Srivalli

...Petitioner

(W.P.No.25426 of 2015)

And

State of Andhra Pradesh, rep.by its Principal Secretary, Municipal
Administration & Urban Development Department, A.P.Secretariat,
Hyderabad and another

...Respondents

(W.P.No.25426 of 2015)

Counsel for the petitioner: Sri K.S.Murthy

(W.P.No.25426 of 2015)

Counsel for respondent No.1: GP for Municipal Administration

Counsel for respondent No.2: Sri Md.Saleem

(W.P.No.25426 of 2015)

The Court made the following:

COMMON ORDER:

These writ petitions pertain to common subject matter.
Therefore, they are heard and being disposed of together.

For convenience, the parties are referred to as they are arrayed
in W.P.No.32932 of 2014.

The petitioner filed W.P.No.32932 of 2014 assailing notice,
dated 17.10.2014, issued by respondent No.4 under Section 217 of the
A.P.Municipalities Act, 1965 (for short 'the Act') calling upon the
petitioner to remove the constructions raised in violation of the
sanctioned building plan.

W.P.No.38988 of 2014 is filed by the petitioner feeling aggrieved by the order, dated 03.12.2014, passed in appeal confirming the final order, dated 18.03.2014, with respect to the illegal construction raised by her.

W.P.No.25426 of 2015 is filed by the petitioner for a mandamus to declare the action of the respondents in refusing to assess and levy property tax in respect of the building illegally constructed by her.

W.P.No.28423 of 2014 is filed by respondent No.5 for a mandamus to declare the inaction of respondent No.4 in taking action for removal of the illegal constructions raised by the petitioner.

The necessity of delving into the detailed facts is obviated for the reason that the learned counsel for the petitioner has submitted that after the building was partly demolished, neither further construction is being made nor the same is being utilised for any purpose. He has further submitted that an application under the Building Penalisation Scheme (BPS) i.e., under G.O.Ms.No.128, Municipal Administration and Urban Development (M1) Department, dated 22.05.2015, is filed; that the same is pending with Rayachoty Municipality and that the petitioner will abide by the decision that may be taken by the Municipality subject to her further remedies available in the event, she feels aggrieved by any such decision.

Sri Md.Saleem, learned Standing Counsel appearing for respondent No.4-Municipality, submitted that the petitioner is not allowed to use the building in any manner in view of the pendency of her application filed under BPS and that she will not be permitted to use the building unless the decision on the application filed for BPS is taken.

Sri V.R.Reddy Kovvuri, learned counsel for respondent No.5, submitted that respondent No.4-Municipality may be directed to consider the objections of his client before taking a final decision on the application filed by the petitioner for regularisation of the illegal constructions raised by her.

In the light of the above facts and the submissions of the learned counsel, the writ petitions are disposed of in the following terms:

- (1) The petitioner is restrained from raising further constructions or putting the building to any use till her application under BPS is considered and disposed of by respondent No.4;
- (2) Respondent No.4 is directed to constantly watch the building constructed by the petitioner and ensure that the same is not put to any use whatsoever by the petitioner or any other person claiming through her. It shall also prevent further construction from being undertaken by the petitioner pending application under BPS. However, it shall not dismantle or remove any part of the existing building;
- (3) Respondent No.4 shall dispose of the petitioner's application for regularisation within one month.
- (4) Respondent No.4 is directed to consider the objections of respondent No.5 to the application filed by the petitioner under BPS of the illegal constructions before taking a decision on the said application and
- (5) The right of the petitioner to use the building and make further constructions shall depend upon the outcome of the application filed by her for regularisation of the illegal constructions.

As a sequel to disposal of the writ petitions, pending interlocutory applications in all these cases shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

19th November, 2015
VGB