

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

WRIT PETITION NO.18634 of 2014

DATED:23-11-2015

Between:

Sarabu Sarojanamma ... Petitioner

And

Municipal Corporation of Nellore

Nellore, rep. by its Commissioner

and another ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. O. Manohar Reddy,

for Mr. C. Subodh

COUNSEL FOR RESPONDENT NO.1: Mr. Ancha Panduranga Rao,

Standing Counsel for Municipalities

(AP)

COUNSEL FOR RESPONDENT NO.2: Mr. T.C. Krishnan

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to set aside endorsement in Roc. No.1884/2013/G1, dt.18.6.2014 of respondent No.1.

A perusal of the impugned endorsement shows that as the petitioner has raised a construction by adding third floor she was directed to remove the same failing which further action is proposed to be initiated as per G.O. Ms. No.168, Municipal Administration Department, dt.7.4.2012.

At the hearing, Mr. O. Manohar Reddy, learned counsel representing Mr. C. Subodh, learned counsel for the petitioner, submitted that there is no truth in the allegation that third floor was constructed and that what was constructed by his client was only a staircase room providing access to the terrace portion. He has further submitted that there were minor deviations in respect of set backs on front side (10 Cms.), left side (20 Cms.) and right side (25 Cms.) and that his client has filed an application under the Building Penalization Scheme (BPS), 2015, on 17.6.2015.

Neither the learned Standing Counsel for respondent No.1, nor Mr. T.C. Krishnan, learned counsel for respondent No.2, disputed the fact that the petitioner's application made under the BPS is pending before respondent No.1.

In the light of the above facts, no direction to remove the alleged unauthorized construction can be issued till the application filed by the petitioner under the BPS is disposed of. Respondent No.2 is, however, given liberty to question the BPS.

Subject to the liberty given to respondent No.2 as above, the writ petition is allowed.

As a sequel to disposal of the writ petition, W.P.M.P. No.23367 of 2014 and W.V.M.P. Nos.3653 and 3812 of 2014 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

23-11-2015

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