

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

Writ Petition No.5869 of 2014

Dated 27th January, 2016

Between:

Smt.N.Andalamma

...Petitioner

And

The Greater Hyderabad Municipal Corporation, rep.by its
Commissioner, Tank Bund Road, Hyderabad and others

...Respondents

Counsel for the petitioner: Sri T.Rajanikanth Reddy
for Sri C.Raghu

Counsel for respondent Nos.1 to 3: Sri N.Ashok Kumar
Counsel for respondent No.4: AGP for Land Acquisition
Counsel for respondent No.5: Sri Gade Venkateswara Rao

The Court made the following:

ORDER:

This writ petition is filed for a mandamus to set aside order bearing No.0699/CSC/TP7/CZ/2009-2012, dated 12.04.2012, of respondent No.2, and the consequential action of the said respondent in granting building permission in favour of respondent No.5 in respect of premises bearing Nos.11-6-180, 11-6-181 and 11-6-189 in Survey Nos.102/1 and 102/2 of Public Garden Road, Nampally, Hyderabad as illegal and arbitrary.

Respondent No.5 was granted Occupancy Rights Certificate (ORC) under the A.P.(Telangana Area) Inams Abolition Act, 1955 (for short 'the Act'). Feeling aggrieved by the same, the petitioner

filed O.P.No.179 of 2016 in the Court of the learned XXIV Chief Judge, City Civil Courts, Hyderabad under Section 24(2) of the Act. Pending the said OP, respondent No.5 filed an application before respondent No.2 for grant of building permission and the petitioner filed objections to the same. By the impugned order, dated 12.04.2014, respondent No.2 rejected the objections of the petitioner and relegated her to competent civil Court for establishing her title. Following the said order, respondent No.2 has sanctioned building permission in favour of respondent No.5. Assailing these orders, the petitioner filed this writ petition.

The fact that as on today the petitioner's right over the property in question is not established is not in dispute. Therefore, it is not appropriate for this Court to interfere with the building permission granted in favour of respondent No.5 who is holding ORC in his favour. However, if the petitioner ultimately succeeds in the pending litigation pertaining to ORC, she will be entitled to the subject property.

In order to protect the interests of the petitioner in such event, this Court has adjourned the case on 21.01.2016 to enable respondent No.5 to file an affidavit to the effect that if the petitioner eventually succeeds in the pending litigation, respondent No.5 will not claim any equities over the constructions that may be made by him in pursuance of the impugned building permission. Accordingly, an affidavit has been filed by respondent No.5 wherein he has *inter alia* stated that he will not claim equities if the petitioner ultimately succeeds in establishing her title over the subject property.

Sri Gade Venkateswara Rao, learned counsel for respondent No.5, has fairly submitted that undertaking not to claim equities includes respondent No.5 not claiming any right over the constructions made by him over the subject property pending adjudication of the title dispute.

The learned counsel for the petitioner submitted that in view of

this undertaking given by respondent No.5, the writ petition may be closed.

Accordingly, the affidavit, dated 24.01.2016, of respondent No.5, is placed on record and the writ petition is disposed of making it clear that in the event the petitioner succeeds in establishing her right, respondent No.5 shall not claim any right over the constructions made by him over the subject property.

As a sequel to disposal of the writ petition, WP.M.P.No.7295 of 2014 & 28346 of 2015 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

27th January, 2016
VGB