

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.32605 of 2012

ORDER:

The petitioner states that she is the absolute owner and possessor of property bearing D.No.3-2(23) in an extent of 1008 sq. yards situated in Sy.No.175, Ongole, Prakasam District, having purchased the same under four registered sale deeds. She applied for building permission for construction of commercial complex for cellar, G+3 in the said property. She gifted an extent of 88.33 sq. yards by way of gift deed bearing Doc.No.2642/1996 dated 10.06.1996 in favour of the Ongole Municipal Corporation (first respondent) for the purpose of laying road. In spite of executing gift deed in favour of the first respondent, when building permission was not granted, she went ahead with construction under deemed provision and completed construction. When criminal case was booked for unauthorized construction, she paid penalty before the Judicial Magistrate of First Class, Ongole. When the Government of Andhra Pradesh announced regularization scheme, she applied under the said scheme but no further orders have been passed regularizing the unauthorized constructions. When notice was served on 25.09.2012 intending to widen the existing 70 feet road to 100 feet as per the master plan, the present Writ Petition was filed on the ground that respondents are laying road beyond the area of 88.33 sq. yards already gifted.

This Court, by order dated 16.10.2012, directed the respondents not to interfere with the property of the petitioner bearing D.No.3-2(23) in Sy.No.175, Ongole, Prakasam District, for purposes of any road widening beyond the extent of 88.33 sq. yards already gifted by her under a registered gift deed, dated 10.06.1996 except otherwise than under due process of law until further orders.

Now a counter affidavit is filed by the first respondent stating that the first respondent is not interested to occupy the site beyond 100 feet which is marked on ground and, by demarcating equal road widening portion on either side, the apprehension of the petitioner is without any basis. It is further stated that, during the course of construction, the petitioner had encroached upon the site which was handed over to the erstwhile Ongole Municipality and the present Ongole Municipal Corporation, constructed two steps covering each step measuring 2.70 m x 1.00 m with 8 steps, and that the neighbouring buildings, falling in the Kurnool road, are removed for formation of the road on their voluntary surrender but the petitioner alone raised objection for widening of the road in spite of gifting a portion of land for road widening. It is specifically contended that the road is formed beyond the site handed over by the petitioner and the petitioner constructed commercial complex unauthorizedly in violation of the master plan, zoning regulations and also constructed one cool drink, tea shop and photo and Xerox

shop in cellar floor; that the petitioner was prosecuted and convicted by the learned Judicial Magistrate of First Class, Ongole; that the construction of the building could not be regularized in view of violation of norms in G.O.Ms.No.901, M.A, dated 31.07.2008; and that the petitioner was asked to pay Rs.2,01,589/- towards balance penal amount duly removing the constructions made in cellar floor and the encroachments made in road widening portion but there is no reply from the petitioner.

In view of the above averments, it is clear that the first respondent wanted to widen the road to 100 feet as per the master plan. In view of the statement made by the first respondent that they are not interested to occupy the site beyond 100 feet, which is marked on ground and by demarcating equal road widening portion on either side, no further orders need be passed in this Writ Petition in favour of the petitioner.

In view of the fact that the petitioner had already executed gift deed in favour of the first respondent, the Writ Petition is closed.

Miscellaneous applications, if any, shall also stand disposed of. No order as to costs.

A. RAMALINGESWARA RAO,J

Date:15.11.2016
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