

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 4536 of 2012

ORDER:

This Writ Petition is filed questioning the letter dated 25.01.2015 issued by the 1st respondent-Cantonment Board.

It is the case of the petitioner that he made an application dated 27.06.2011, for construction of a compound wall to protect the property over an extent of 300 Sq.Yards situated in Plot No.90, forming part of Survey Nos.86, 87 and 92, under the name and title of "Amar Jyothi Weaker Sections Co-operative Housing Society". As there was no response from the respondents, exercising the right under Section 238(6) of the Cantonment Act, 2006 (in short "the Act"), the petitioner made construction of the compound wall and a small room in the said property. Now, the petitioner received a communication dated 25.01.2012, informing that the permission cannot be granted on account of the claim of Sri K. Siva Reddy-2nd respondent, who sought permission for construction of compound wall to open Plot situated in Sy.Nos.78, 79, 80, 81 & 82, and on inspection, it was found that there was a plot showing Plot No.90, which does not belong to him and as such, the plan was returned to Sri K. Siva Reddy. The second reason cited was that Sri K. Siva Reddy lodged a complaint not to accord sanction to the petitioner as I.A.No.32 of 2012 in O.S.No.17 of 2012 is pending on the file of learned XI Junior Civil Judge, City Civil Court, Secunderabad. The Cantonment Board also informed that as the petitioner proceeded to construct the compound wall unauthorisedly, action would be initiated in accordance with the provisions of the Act.

Sri P.V. Rajasekhar, learned counsel for the petitioner submits that there is no fault on the part of the petitioner in constructing the compound wall as well as the room, exercising his right under Section 238(6) of the Act, which envisages if the permission is not refused within

the stipulated time, the same shall be considered as deemed permission. He would also further submit that the reasoning stated for refusal of grant of permission on account of the wrong claim made by Sri K Siva Reddy, cannot be a valid one, as admittedly, Sri K. Siva Reddy had not sought for construction of compound wall in Plot No.90 and his claim is limited to the plot situated in Sy.Nos.79, 80, 81 and 82. Further, in the suit filed by Sri K Siva Reddy, the injunction order granted in his favour, was in fact vacated, on contest both by the petitioner as well as the Cantonment Board. The Petitioner apprehends initiation of action, including prosecution, by the 1st respondent-Cantonment Board, as threatened by them in the letter dated 25.01.2012. Hence, he seeks to allow the Writ Petition.

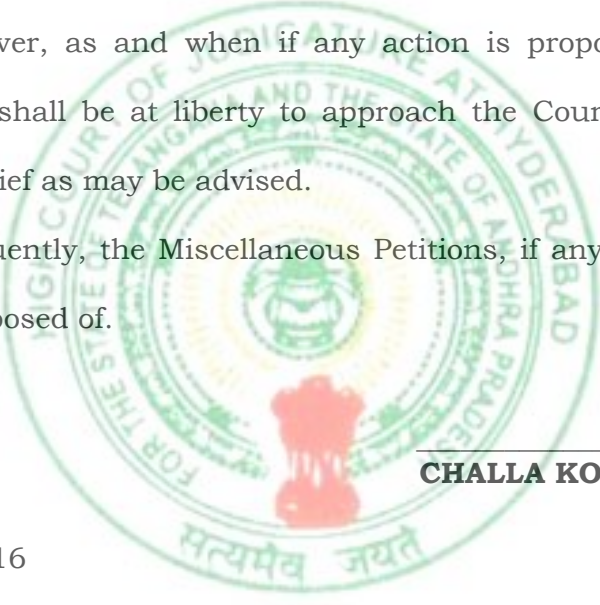
One Smt. Meena Asati filed an application, on 02.03.2016, seeking to implead her as party respondent No.3. The case of the proposed implead petitioner is that she purchased the subject property by way of a Registered Sale Deed bearing No.1583/2013, dated 22.10.2013, executed by one Sri M.Dilsukh Ram, S/o late M. Sakha Ram, the General Power of Attorney holder of the petitioner Sri P. Anil Kumar S/o late P. Kishen Narayan. As of date, the petitioner has no more interest in the property and as a matter of fact, the said implead petitioner had applied for building permission with the 2nd respondent and the same has been granted vide Resolution No.5(11), dated 14.08.2014 and that she has also paid necessary requisite fees to the Board. Further, she had requested the vendor / petitioner to withdraw the Writ Petition as the same is no longer relevant. The submission of the learned counsel for the implead petitioner that permission was granted by the Cantonment Board is not being disputed by the learned standing counsel for the 1st respondent-Cantonment Board. As a matter of fact, the learned standing counsel for the 1st respondent-Cantonment Board submits that the relief claimed in the writ petition has become

infructuous, particularly in view of the fact that the petitioner had sold away the property in favour of the implead petitioner.

Having considered the respective submissions, as of date, no punitive action has been initiated against the petitioner. It is only an apprehension aired by the petitioner's counsel that action may be taken against the petitioner by the 1st respondent-Cantonment Board. In view of the admitted fact that the petitioner had divested himself of the property to the implead petitioner, which was not contravened by the Board, it can safely be said that the petitioner has no connection with the subject property.

Accordingly, in the facts of the present case, the Writ Petition is closed. However, as and when if any action is proposed against the petitioner, he shall be at liberty to approach the Court of law seeking appropriate relief as may be advised.

Consequently, the Miscellaneous Petitions, if any pending, shall also stand disposed of.



CHALLA KODANDA RAM, J.

Date:10.11.2016

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