

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.14001 of 2015

Date:19.01.2016

Between:

K.Kaladhar,
S/o Shankaraiah and two others.

..... Petitioners

And:

State of Telangana, repled., by its Principal
Secretary, Municipal Administration and
Urban Development Department,
Hyderabad and four others.

.....Respondents

Counsel for the Petitioners: Mr. Rama Mohan Palanki

Counsel for Respondent No.1: GP for Municipal Admn. (TS)

Counsel for Respondent No.3: Smt G.Neeraja Reddy

Counsel for Respondent Nos.4 & 5: Mr. V.Balaram

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare the action of respondent No.2 in not initiating action against respondent Nos.4 and 5 for constructing building on public pathway in Survey No.600 of Gajwel, Gajwel Mandal, Medak District, as illegal and arbitrary.

In their affidavit, the petitioners have *inter alia* averred that on being approached by them, respondent No.2 has informed that respondent No.5 was given permission for construction of building.

In spite of the above plea, the petitioners have not chosen to question the building permission granted to respondent No.5 and instead, a generic relief is sought in the Writ Petition for a *Mandamus* to declare the action of respondent No.2 in not initiating action against respondent Nos.4 and 5 for construction of building on public pathway as illegal and arbitrary. When respondent Nos.4 and 5 have been constructing building in pursuance of the sanctioned plan, no *Mandamus* can be issued for taking action against such construction. Unless the petitioners avail appropriate remedy for questioning the sanctioned plan and succeed in such proceeding, the right of respondent Nos.4 and 5 to construct the building in accordance with the sanctioned plan cannot be interdicted or impaired.

In this view of the matter, the Writ Petition is dismissed, however, with liberty to the petitioners to avail appropriate legal remedy if they feel aggrieved by grant of building permission to respondent No.5.

As a sequel to dismissal of the Writ Petition, interim order, dated 14.5.2015, is vacated and WPMP.No.18344 of 2015 and WVMP.No.2065 of 2015 are dismissed as infructuous.

JUSTICE C.V.NAGARJUNA
REDDY

19th January, 2016
DR