

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT APPEAL No.139 of 2016

Date: 01.03.2016

Between:

M/s Mysore Fertilizers Company Pvt. Ltd.,
Rep.by its GPA Holder Ramesh Gaikwad,
S/o Late Sri P.Hanmanth Rao, Aged 42 years,
R/o H.No.8-3-720/15/A/1, Yellareddyguda,
Ameerpet, Hyderabad.

.....Appellant/
Petitioner

and

The State of Telangana, rep.by its Principal
Secretary, Department of Municipal Administration
and Urban Development at Secretariat, Hyderabad
and others.

.....Respondents

The Court made the following:

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT APPEAL No.139 of 2016

PC: (Per the Hon'ble Sri Justice P.Naveen Rao)

Heard Sri M.Ch.Janardhan Reddy, learned counsel for the appellant, learned Government Pleader for Municipal Administration Urban Development (TG) for respondent No.1, Sri P.Keshava Rao, learned standing counsel for respondents 2 to 4 and Sri T.Sreedhar, learned counsel for respondents 5 to 7.

2. Parties are referred to as arrayed in the writ petition.

3. Petitioner is the appellant. Petitioner challenged the building permission dated 03.11.2014 granted in favour of the respondents 5 to 7 in the premises bearing P.R.No.8-2-675/A, Road No.13, Banjara Hills, Hyderabad. According to the petitioner, under the guise of said building permission, respondents 5 to 7 are undertaking construction of the building encroaching the land owned by the petitioner company.

4. The facts on record would disclose that petitioner company instituted O.P.No.177 of 2013 on the file of V Junior Civil Judge, City Civil Court, Hyderabad, praying to grant permanent injunction. Petitioner also filed I.A.No.30 of 2013, wherein injunction was granted in favour of the petitioner restraining the respondents 5 and 6 herein interfering with the possession of the property by petitioner. It appears, 7th respondent herein filed O.S.No.744 of 2013 on the file of V Junior Civil Judge, City Civil Court, Hyderabad concerning the same property. Learned counsel for petitioner/appellant contends that in violation of injunction order construction is being made. The facts of

encroachment and illegal construction were apprised to Commissioner. The Commissioner is vested power under Section 450 of the Greater Hyderabad Municipal Corporation Act to cancel the building permission if there was misrepresentation or fraud played in obtaining building permission. In the facts of this case, the Commissioner ought to have cancelled the building permission granted on 3.11.2014.

5. Having regard to the rival claims on the title to the property in issue and since civil litigation is pending, learned single Judge declined to interfere with the building permission granted. However, while dismissing the writ petition, liberty was granted to the petitioner to take appropriate course of action as warranted by law if the respondents have violated the injunction order granted in his favour. Petitioner was also granted liberty to pursue the pending suit or to institute a fresh suit for comprehensive reliefs before the competent Court. Thus, when there is serious dispute to the extent of ownership to the property in issue and when the rival parties have invoked the jurisdiction of the civil Court and obtained injunction orders, it cannot be said that the Commissioner, Greater Hyderabad Municipal Corporation committed manifest error in not canceling the building permission earlier granted in favour of respondents 5 to 7 in exercise of power vested in the Commissioner under Section 450 of the GHMC Act.

6. No case is made out for interfering with the well considered order of the learned single Judge. We see no merit in the writ appeal and writ appeal is accordingly dismissed. No costs. Miscellaneous petitions if any pending shall stand closed.

DILIP B. BHOSALE, ACJ

Date :01.03.2016

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P.NAVEEN RAO, J

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