

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

Writ Petition No.30034 of 2012

ORDER:

The petitioner is a lessee of Shop belonging to the 2nd respondent during the period 16-04-2001 to 15-04-2004 on payment of Rs.13,446/- per month and after expiry of the said period of lease, the petitioner submitted a representation requesting the authorities to permit him to construct three storied building in the vacant site of the Temple situated at north-eastern side of the Temple premises with his money subject to payment of Rs.15,000/- per month for the building for a period of three years initially and agreed to enhance the same by 10% every three years for a period of 12 years. On the representation of the petitioner, the Commissioner of Endowments sought permission from the Government and the Government accordingly issued Memo, dated 19-12-2008 according permission to the petitioner to construct a building. Thereafter, the 2nd respondent asked the petitioner to pay a sum of Rs.6,00,000/- towards donation and he paid the said amount. After complying with the formality, the 1st respondent vide proceedings, dated 30-05-2009 granted permission for construction of building and accordingly, the building was constructed. The building was assessed to house tax. While so, the 2nd respondent informed the petitioner that the 1st respondent issued proceedings on 11-05-2012 for removing certain constructions and the petitioner was asked to comply with the same. Along with the said letter, the 2nd respondent enclosed a notice dated 28-04-2012 issued by the 1st respondent Municipality making reference to certain deviations from the approved plan made while constructing the building. Challenging the proceedings of the 1st respondent dated 28-04-2012 and the

consequential proceedings of the 2nd respondent dated 11-05-2012, the present writ petition is filed.

A counter affidavit is filed by the 1st respondent stating that the 2nd respondent sought building permission for construction of three storied shop room building at Door No.9/485 to 491 in Sy.No.537B of Proddatur Village beside Sundar Textiles at Shivalayam Street, Proddatur. The 2nd respondent executed and submitted notarised affidavit in favour of the 1st respondent authorizing him to initiate action in case of violation of terms and conditions of Government Order in G.O.Ms.No.569, dated 23-08-2008. 10% of the total built up area was also handed over to the Municipality as a security for compliance with the terms and conditions. However, the petitioner appears to have made constructions contrary to the sanctioned plan and in those circumstances, the impugned proceedings were issued. A final notice dated 22-09-2012 was also issued to the Executive Officer of the 2nd respondent Temple to remove the violated/deviated/encroachment area as the Director of Municipal Administration, A.P., Hyderabad, in Memo Roc.No.24225/2011/E1-I, dated 10-01-2012 directed the 1st respondent to take necessary action on the deviated constructed area of 139% excess over approved area. The petitioner has nothing to do with the said directions and he cannot maintain the writ petition.

The above averments make it clear that the petitioner made constructions by paying donation of Rs.6,00,000/- on the land belonging to the 2nd respondent Temple on the strength of a building permission issued in favour of the 2nd respondent by the 1st respondent and while making such constructions, the petitioner violated the building plan and constructed 139% excess over approved area.

In those circumstances, the 1st respondent wanted to take action for demolition of violated/deviated/encroachment area and issued a notice to the 2nd respondent and the 2nd respondent has no objection for taking action against the said deviation.

It is an admitted case of violation of sanctioned plan and this court cannot interfere with the action of the 1st respondent and there was no objection to the 2nd respondent for taking action against the said deviation though the petitioner might have donated an amount of Rs.6,00,000/- to the 2nd respondent Temple and got constructed building and also agreed to pay rent with certain conditions, there was no agreement to deviate from the sanctioned plan while making constructions.

In the circumstances, the writ petition fails and the same is accordingly dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.



A.RAMALINGESWARA RAO, J

Date: 28-10-2016
Prv

