

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.12137 and 21070 of 2016

COMMON ORDER:

Since the issue involved in both the writ petitions is one and the same, they are being disposed of by this common order.

2. W.P No.12137 of 2016 is filed seeking to declare the action of respondent No.1 in not taking action against respondent Nos.2 and 3 from raising illegal constructions in Plot No.61, Park View Enclave, Manovikas Nagar, Bowenpally, Secunderabad Cantonment Area, in spite of representations, dated 11.08.2014, 20.01.2015 and 18.03.2016, submitted by the petitioner, as arbitrary and illegal and consequently, direct respondent No.1 to stop the constructions.

3. W.P No.21070 of 2016 is filed seeking to declare the action of the respondents in trying to demolish the petitioner's building, though the same is being constructed in consonance with the sanctioned plan, without following the procedure as contemplated under Sections 247 and 249 of the Cantonment Acts, 2006 and also keeping pending the representation, dated 22.03.2016, and also reply/representation, dated 10.06.2016, submitted to the respondents, as arbitrary and illegal.

4. The petitioner in W.P.No.21070 of 2016 is respondent No.2 in W.P.No.12137 of 2016.

The case of the petitioner in W.P No.12137 of 2016 is that respondent Nos.2 and 3 are making illegal constructions upto G+2 floors and pent house in Plot No.61, Park View Enclave without obtaining permission, which is in violation of the Cantonment Rules framed under the Act. In this regard, the petitioner submitted several representations and reminders to the

1st respondent, but no action has been taken so far.

5. The case of the petitioner in W.P No.21070 of 2016 is that he is

the absolute owner and possessor of the subject property and he made constructions as per the sanctioned plan. While things stood thus, the petitioner in W.P.No.12137 of 2016 and her husband made false complaints against him and his brother stating that they made illegal constructions in their plot.

6. When W.P No.12137 of 2016 came for admission, this Court appointed an Advocate Commissioner to inspect the physical features and find out as to whether any pent house was constructed above the 2nd floor in deviation of sanctioned plan. When the Advocate Commissioner visited the premises to record the physical features, the petitioner in W.P No.12137 of 2016 refused for inspection of the premises. Respondent No.3 in active collusion with the petitioner in W.P No.12137 of 2016 and her husband along with 70 labourers came to the premises on 06.06.2016 and demolished the walls and slab of elevated water tank constructed over and above the 2nd floor without any reason and sealed the 2nd floor. Therefore, the petitioner in W.P.No.21070 of 2016 made an application dated 22.03.2016 to revise the sanctioned plan, but the same is pending before the 2nd respondent. Thereafter, he also submitted a representation to the respondents requesting to remove the seal of the 2nd floor and the said representation is also pending. Aggrieved by the inaction of the respondents, the petitioner filed another representation on 30.05.2016 before respondent No.2 requesting him to enquire into the matter and to take appropriate action. But, no action has been taken till date in W.P.No.21070 of 2016. On 27.06.2016, respondent No.3 and his staff visited the premises of the petitioner in W.P.No.21070 of 2016 and forcibly entered into the building along with some workers and threatened the petitioner that they would remove the staircase and other portion of building, if he does not settle the issue.

7. Respondent No.1 in W.P No.12137 of 2016 filed counter

denying the allegations made in the petition and stating that though application, dated 22.03.2016, filed by the petitioner in W.P No.21070 of 2016 is rejected, again fresh affidavit is filed stating that the application, dated 22.03.2016, is pending consideration and the same was referred to the Board.

8. Learned counsel for the petitioner in W.P No.21070 of 2016 submits that the petitioner applied for building permission for construction of G+2 Floors and vide Board Resolution, dated 05.12.2013 permission was granted; that the petitioner in W.P.No.12137 of 2016, without having any right, made false complaints against the petitioner in W.P.No.21070 of 2016 stating that he is making constructions in his land; that in pursuance of the complaints given by her, the respondent authorities are trying to demolish the building belonging to the petitioner in W.P.No.21070 of 2016; that the 3rd respondent in active collusion with petitioner in W.P.No.12137 of 2016 demolished the walls and slab of elevated water tank constructed over and above the 2nd floor without any reason and sealed the 2nd floor; aggrieved by inaction of the respondents, the petitioner made an application on 22.03.2016 and also a detailed representation on 10.06.2016 to the respondents requesting them to remove the seal of the 2nd floor, but no action has been taken.

9. Learned Standing Counsel for the Cantonment Board submits that the petitioner in W.P No.21070 of 2016 filed civil suits and there are two sale deeds in respect of one land.

10. In view of facts and circumstances of the case and having regard to the fact that the petitioner had already submitted explanation to the notice, dated 07.06.2016, issued by the respondents and further he also submitted representation, dated 22.03.2016 to the respondents and till date no orders have been passed thereon, the respondent

Board shall pass appropriate orders on the representation, dated 22.03.2016 and also on the explanation submitted by the petitioner pursuant to the notice, dated 07.06.2016, after issuing notice to the petitioner in W.P.Nos.12137 and 21070 of 2016 and after hearing both parties, within a period of four (04) weeks from the date of receipt of a copy of this order. Till such time, *status quo* obtaining as on today shall be maintained by both parties.

11. With the above observation, both the Writ Petitions are disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in these two writ petitions shall stand closed.

A.RAJASHEKER REDDY, J

JULY 19, 2016

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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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WRIT PETITION Nos.12137 and 21070 of 2016

Date: 19.07.2016

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