

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 13196 of 2012

ORDER:

Petitioner states that he is the absolute owner and possessor of house property bearing Nos.20-1-236 to 238, admeasuring 115 square yards, situated at Chandrikapur, Puranapool, Hyderabad having purchased the same under a registered sale deed, dated 18.12.1991. The petitioner obtained building permission for construction of ground and first floors. He also made construction of the second floor and submitted an application for regularisation of the said construction in 2008. The respondent-Corporation regularised the same by issuing proceedings, dated 26.11.2010. While so, when one of his brothers made a complaint to the respondent-Corporation, the latter issued a show cause notice to the petitioner on 06.02.2012. The petitioner submitted his reply on 10.02.2012 stating that he constructed only balconies which do not obstruct light and air to any of the neighbours and the complaint was made by his brother as several cases were pending between them. He further submits that he would apply for regularisation of those projecting balconies also if Government issues any order. When an order was passed on 24.04.2012 revoking the orders of regularisation, dated 26.11.2010, the present writ petition was filed.

Learned counsel for the petitioner submits that even when there were minor deviations, the entire order of regularisation cannot be revoked and the respondent-Corporation should have specified the deviations, which are contrary to the orders of regularisation, and issued necessary orders.

No counter-affidavit is filed by the respondents till today in spite of granting time. Learned Standing Counsel appearing for the respondent-Corporation addressed general arguments and submitted that the Officer concerned expressed his inability to produce the file as the regularisation was made in 2010.

It appears that while issuing the orders of regularisation on 26.11.2010, the encroachment made over the road portion was deleted in the approved plan and the petitioner was directed to demolish/alter the same. But, the petitioner did not alter or demolish the encroachment on the road portion. It is the case of the petitioner that only the balconies are projecting and there was no encroachment on the road portion. However, without clarifying the violation made by the petitioner, the earlier order of regularisation was revoked by proceedings, dated 24.04.2012.

In the circumstances, the impugned order, dated 24.04.2012, is set aside and the respondents are directed to inspect the subject property and if they notice any encroachment on the road portion, contrary to the regularisation orders, dated 26.11.2010, it is open for

them to issue appropriate notice to the petitioner indicating the encroachment and give him an opportunity to take appropriate steps for complying with the same. If the petitioner fails to comply with the same, it is open to the respondents to take action in accordance with law.

The writ petition is allowed to the extent indicated above.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

Dt:25.10.2016

kdl



A. RAMALINGESWARA RAO, J