

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.11707 OF 2013

ORDER

The challenge in this writ petition was to the order dated 22.02.2013 passed by the Joint Collector and Additional District Magistrate, Krishna, Machilipatnam, whereby he cancelled the 'No Objection Certificate' for construction of a cinema theatre granted to the petitioner in relation to the premises bearing R.S.No.514/1A 37, Nandigama Village and Mandal, Krishna District.

By order dated 12.09.2013, this Court took note of the fact that the authority had failed to comply with the principles of natural justice and accordingly suspended the operation of the impugned order. W.V.M.P.No.4863 of 2015 was filed by the impleaded respondents 3 and 4 to vacate the above order. Respondent 3 is the Committee of the mosque which is stated to be within the prohibited distance from the premises where the proposed theatre is being constructed.

Sri Sreenivasa Rao Velivela, learned counsel for respondents 3 and 4, would contend that the theatre is now nearing completion and if it is permitted to start running, irreparable loss would be caused to his clients as such operations would be within the prohibited distance as per law.

Sri K.V.Bhanu Prasad, learned counsel for the petitioner, would however contend that the distance between the theatre and the mosque would not be within the prohibited parameters.

As the main ground on which a challenge was laid to the impugned order was that the petitioner was not given an opportunity of hearing before his 'No Objection Certificate' was cancelled, this Court sees no reason to enter into the dispute as to the actual distance between the proposed theatre and the existing mosque. It is for the Joint Collector and Additional District Magistrate, Krishna, Machilipatnam, to look into this aspect of the matter. As it is an admitted fact that the

petitioner was not given an opportunity of hearing prior to cancellation of his 'No Objection Certificate' under the impugned order dated 22.02.2013, the said order is set aside. The matter is remitted to the file of the Joint Collector and Additional District Magistrate, Krishna, Machilipatnam, for consideration afresh of the issue. The authority shall hear both the petitioner as well as respondents 3 and 4, cause a joint inspection as to the actual distance between the proposed theatre and the mosque and if it is found to be within the prohibited parameters, take appropriate action in accordance with law. This exercise shall be completed expeditiously and in any event, not later than three weeks from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

05th JANUARY, 2016

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