

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.3141 of 2016

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Date: 03.02.2016

Between:

Gorre Sammi Reddy

.. Petitioner

and

Greater Warangal Municipal Corporation
rep. by its Commissioner, Warangal and 3 others

.. Respondents

Counsel for the petitioner : Mr.Jithender Rao Veeramalla

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The Court made the following:

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Order:

This Writ Petition is filed for a Mandamus to

set aside Notice No.CIR-II/ACP/TPS/GWMC/2015, dated 16.01.2016, of respondent No.1, whereby the petitioner was informed that he has been constructing ground floor of RCC building in deviation of the sanctioned plan and by encroaching the road affected area of DP.No.33/79 near House No.2-1-1203/1 situated at Naim Nagar, Lashkar Singaram, Hanamkonda, Warangal City, as illegal and arbitrary,

It is the pleaded case of the petitioner that on receipt of the said notice, he has submitted a detailed explanation wherein he has *inter alia* stated that his predecessor in title has filed OS.No.307 of 1991 in the Court of the learned II Additional District Munsif, Warangal, against the then Selection Grade Municipality, Warangal, for permanent injunction and to restrain the defendant from causing loss to the suit schedule property by way of demolition or otherwise; that on consideration of the evidence and the rival contentions of both sides, the civil Court recorded a categorical finding that the Municipality failed to establish that a road is sanctioned by the Municipality and that the same is covered by

LP.No.33/79; and that accordingly, the suit was decreed on 24-11-1993, which has become final. The petitioner has, therefore, specifically pleaded that there is no existing road in DP.No.33/79 and that only 30 feet wide space was left by the land owners of the locality for convenience of the people of the said locality.

As regards the allegation of deviations, the petitioner stated that the impugned notice has not given the details of the alleged deviations and that if such details are furnished, he is ready to remove the same with his own expenditure. The grievance of the petitioner is that having received the said representation, the officials of respondent No.1 have removed certain constructions, allegedly, raised in deviation of the sanctioned plan.

At the hearing, Mrs.Pingali Lakshmi, learned Standing Counsel for Greater Warangal Municipal Corporation representing the respondents, did not dispute the fact that the impugned notice did not specify the alleged deviations with which the petitioner has raised construction. Further, no details as to the alleged encroachment of road by the petitioner have been mentioned. When a

detailed representation was submitted by the petitioner, it was the bounden duty of the respondents to deal with the same, pass an order in writing and communicate the same to the petitioner before proceeding with further action. Without following this procedure, if the respondents have demolished any part of the constructions raised by the petitioner, the same constitutes patent arbitrariness. If the petitioner has suffered any loss on account of such arbitrariness, he shall be free to file a civil suit for recovery of damages against the respondents. If the respondents propose to take further action, they must first issue a fresh notice to the petitioner specifying the nature of deviations and the alleged encroachment of road and after considering the objections of the petitioner, they shall pass an order in writing before proceeding further.

Subject to the above directions and observations, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.3986 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 3rd February, 2016
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