

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.7981 of 2016

ORDER:

Heard Sri Ambati Srinivas, learned counsel representing Sri Nimmagadda Satyanarayana, learned counsel for the petitioner and Sri Md. Saleem, learned Standing Counsel for the second respondent Municipal Corporation.

The prayer of the petitioner in this case is as under:

‘For the reasons stated in the accompanying affidavit the petitioner prays that this Hon’ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of ***WRIT OF MANDAMUS*** declaring the inaction on the part of 2nd respondent on the petitioner’s representation dated 06.07.2015 submitted for removal of already constructed portion of illegal construction made by Respondents 3 to 5 in the name of MDR Residency situated around 640 square yards situated adjacent to petitioner’s residential house situated in Survey No. 1183 in Kavali Town, SPSR Nellore District and for prevention of further illegal construction being undertaken therein, in deviation of approved plan and without leaving set backs, as illegal, irregular, irrational, amounts to non-discharge of legal obligation conferred on 2nd respondent under the provisions of Andhra Pradesh Municipalities Act, 1965 and rules framed there under and offends articles 14 and 21 of Constitution of India and consequently direct the 2nd respondent to remove said illegal constructions by preventing further illegal constructions being made by Respondents 3 to 5 in the name of MDR Residency and to pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.’

It appears that the petitioner made representation dated 06.07.2015 to the Commissioner, Kavali Municipality, Kavali, the second respondent, and the same is pending consideration.

In the light of the order proposed to be passed by this Court, there is no necessity to put the unofficial respondents on notice as this

Court is not venturing to adjudicate any issue on merits.

As the representation dated 06.07.2015 made by the petitioner is yet to be acted upon, it is for the authority concerned to apply its mind to the said representation and take action thereon, if warranted, in accordance with the due procedure. In this exercise, the authority would necessarily have to give an opportunity of hearing to all the parties who would be affected by any decision taken upon the petitioner's representation. Adhering to this procedure, the second respondent shall duly consider the petitioner's representation dated 06.07.2015 and take appropriate action in the matter, if warranted, in accordance with law. This exercise shall be completed expeditiously and in any event, not later than four weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with the above directions. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

11th MARCH, 2016

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