

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.33272 of 2014

Date:27.01.2016

Between:

Koneru Hari Kishore,
S/o Koneru Suryanarayana

..... Petitioner

And:

State of Telangana, reptd., by its Principal
Secretary, Municipal Admn. & Urban
Development Department, Hyderabad
and two others.

.....Respondents

Counsel for the Petitioner: Mr. Challa Gunaranjan

Counsel for Respondent No.1: AGP for Municipal Admn.
(TS)

Counsel for Respondent Nos.2 & 3: Mr. N.Praveen Kumar

The Court made the following:

ORDER:

Feeling aggrieved by the inaction of respondent Nos.2 and 3 in approving the building plan pursuant to his application, dated 08.11.2013, the petitioner filed this Writ Petition.

In the counter-affidavit filed by respondent No.3, he has *inter alia* stated as under:

“It is respectfully submitted that in reply to para Nos.4 and 5 that the plot purchased by the petitioner is abutting to the Nala which is northern side to the plot. AS the petitioner has submitted an application along with map for construction of building, this respondent has inspected the site as it is abutting to the Nala and as per the Building Rules and Regulations, G.O.Ms.No.168/MA, dated 07.04.2012, the buffer zone areas of 2 meters i.e., equivalent to 6 feet has to be kept open towards the nala side. As there were no proper records about the width of the Nala, this respondent has issued a letter, i.e., Rc.No.G1/17/2015, dated 06.6.2013, to the Tahsildar, Kaghaznagar to demarcate and give the report about the site and Nala. The Tahsildar, Kaghaznagar has submitted the report along with letter, dated 26.10.2013, with a map mentioning the width of Nala is 43 feet to the northern side to the plot No.9/1 along with the sketch drawn by the surveyor.

It is respectfully submitted that in reply to para Nos.7 to 9, that the Town Planning Department and concern technical persons have scrutinized the construction map after verifying the spot and submitted the same to modifying the submitted plan by buffering zone by leaving the same to open place as per the G.O.Ms.No.168, as stated supra. As the sub-Collector, Adilabad was a special officer at that time. As there were complaints that the Nala has been occupied by the petitioner, as such, the Special Officer has also ordered to submit a detailed report and this respondent has submitted a detailed report to the Special Officer-cum-Sub-Collector, Asifabad, vide letter No.G1/187/2013-14, dated 05.12.2013. As there was no council and the Special Officer

was the authority to accord the permission through the Commissioner, Municipality. Therefore, the same proposals were submitted to the Special Officer on his table. It is further submitted that as the matter was pending before the Special Officer and the petitioner was also informed that he can construct the house after leaving the buffer zone as per the Building G.O.Ms.No.168 for which the petitioner has refused and also demanded for approval of his construction permission plan as per his map only without leaving the buffer zone. The petitioner was also informed to submit the re-plan but he did not submit the same.

The respondent has no objections to the construction by the petitioner by leaving buffer zone of 2 meters by re-submitting the modified map as required under G.O.Ms.No.168. This respondent has not committed any wrong as the petitioner refused to re-submit the modified plan the delay has been caused which was also informed to the petitioner.”

Mr. Challa Gunaranjan, learned counsel for the petitioner, submitted that though respondent No.3 has claimed in his counter-affidavit that the petitioner was asked to leave 6 feet from the Nala as buffer zone and submit a revised plan, but he refused the said offer, no such proposal is being put to his client. He has, however, fairly submitted that his client will take return of the application filed by him and resubmit the same by modifying the plan leaving 2 meters (6 feet buffer zone) from the existing Nala.

In the light of the clear and specific stand taken by respondent No.3 in the counter-affidavit that if the petitioner files a revised plan by leaving the buffer zone as indicated above, his building plan will be approved, the

Writ Petition is disposed of by permitting the petitioner to take return of the application filed by him for building permission and submit a fresh plan by leaving the buffer zone of two meters (6 feet) from the existing Nala. Within one month of submission of such plan, respondent Nos.2 and 3 shall approve the same and communicate it to the petitioner.

As a sequel to disposal of the Writ Petition, WPMP.No.41617 of 2014 shall stand disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*27th January, 2016
DR*