

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.19710 of 2017

ORDER:

The prayer in the writ petition reads as follows:

“To issue an order or direction, more particularly one in the nature of writ of mandamus or any other appropriate writ declaring the action of the 2nd respondent in passing orders in Lr.No.GPM/B/99/2016, dated 08.06.2017, revoking the construction permission granted in favour of the petitioners in proceedings No.GPM/B/99/2016, dated 12.11.2016, for construction G+2 floors in their house site plots of land admeasuring 278.66 sq. yds., plot No.12 in Sy.No.409/A, and land admeasuring 191.50 sq. yds., plot No.13 in Sy.No.409/A, situated at Mothe Village shivar of Jagtial Mandal and District, respectively, is nothing but abusing the powers vested in him and contrary to the provisions of A.P. Panchayat Raj Act and the Rules framed therein and also arbitrary, illegal, null and void and violative of principles of natural justice and also violative of Articles 14, 19 and 21 of the Constitution of India and pass such other order or orders.”

Heard the learned counsel for the petitioners and also learned Government Pleader for Panchayat Raj for respondent No.1 and Sri G.Narender Reddy, learned standing counsel for 2nd respondent and Sri A.Sudarshan Reddy representing Sri C.Hari Preeth, learned counsel for 3rd respondent and perused the prayer in the writ petition with the supporting affidavit and also the impugned proceedings of the 2nd respondent dated 08.06.2017 and the references 1 to 4 therein.

The grievance of the petitioners is that the impugned revocation order of the permission already accorded under reference No.1 of the impugned order is unsustainable that too by

invoking Rule 28 of the A.P. Gram Panchayat Land Development (Layout and Building) Rules 2002 vide G.O.Ms.No.67 dated 26.02.2002, under the Panchayat Raj Act 1994.

Rule 28 speaks about revocation of permission is as follows:

“28. Revoking of Permission:- The Executive Authority or the District Panchayat Officer may revoke any permission issued in these Rules whenever it is found that such permission was obtained by fraudulent means or misrepresentation of the facts.”

The revocation in question which is the impugment in the writ petition is by invoking the Rule to say either by fraudulent means or misrepresentation of facts. In invoking the Rule coming to the facts what is referred in the impugned proceedings is non-disclosure of the factum of the writ petitioners were sought for impleadment in I.A.No.781 of 2016 in the pending suit O.S.No.31/2005 as co-defendant along with their vendor already defendant party to the suit. The permission granted was under reference No.1 of the impugned proceedings vide permission proceedings No.GPM/B/99/2016, dated 12.11.2016. The only thing to consider is as on the date of applying the permission whether the impleadment petition notice served and having knowledge they played fraud on Panchayat in applying permission or misrepresentation of facts for saying any such proceedings not pending. Here it is not the misrepresentation if at all fraud and which must be shown outcome of suppression with knowledge deliberately and there is nothing to show including from the impugned proceedings. Once such is the case, the impugned order is per se unsustainable from the counter affidavit filed by the 2nd respondent-Panchayat and also from the

elaborate counter by the 3rd respondent to the writ petition with several enclosures, there are several contentions raised which are in fact beyond the scope of the writ petition.

Needless to say the remedy to the 3rd respondent if at all is in the pending suit and also pending application for impleadment under contest if at all to seek for injunction not to construct if able to show prima facie case among other requirements. Apart from it, even from the contentions in the counters of respondent Nos.2 & 3 of there is no approved lay out for the construction of the building, the impugned order is not based on such proceedings if at all to consider, but for to observe any such representations if at all are left open to pass appropriate orders by meeting the principles of natural justice.

Accordingly and in the result, the Writ petition is allowed by setting aside the impugned order.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 20.07.2017
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