

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 3643 of 2012

ORDER:

- 1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of respondent No.2 in issuing impugned notice A.O.No.01/ 2012-BC-II, dated 16.02.2012, directing the petitioner to vacate the house/ shed constructed by the petitioner in Sy.No.66-2A/ 66-1B situated at near Compost Yard, Ahmed Nagar, Hindupur, Anantapur District, as illegal, arbitrary and against law; and consequently to set aside the same.
- 2) The averments in the affidavit filed in support of the writ petition would show that the petitioner claims to be absolute owner of the house in Sy.No.66-2A/ 66-1B. In the year 2008, respondent No.3 granted house site patta in favour of the petitioner vide proceedings No.358/ 1417 (B) dated 28.06.2008. Thereafter, she constructed a house in it. The concerned authorities also provided electricity connection and other amenities. While things stood thus, respondent No.4 is said to have made a false complaint in Prajavani. Basing on which, respondent No.2 issued a notice dated 10.03.2011, in the name of one Subhan demanding to remove the encroachment. Then, respondent No.4 filed W.P.No.12320 of 2011 to declare the action of respondent No.2 in not taking any steps for removal of unauthorised construction of shed on the southern side gate of compost yard which is in Sy.No.66/ 2 situated at Ahmad Nagar.

The said writ petition was disposed, directing respondent Nos. 1 and 2 to take appropriate action in removing the un-authorised construction on municipal site after giving a reasonable opportunity to respondent No.3. It is stated that the petitioner is not a party to the said writ petition. As per the directions of this Court, respondent No.2 issued the impugned notice. Challenging the same the present writ petition is filed.

3) By an order dated 13.02.2012 this Court while issuing notice before admission granted interim stay. Thereafter, counters and vacate stay application came to be filed by the respondents, disputing the averments made in the affidavit filed in support of the writ petition.

4) It is their case that the petitioner has no locus to file the present writ petition since the notice was issued to a person by name Nurzahan.

5) It is to be noted that the present writ petition is filed by one Parveen Taj, W/o. Juber Ahamed. The impugned notice dated 16.02.2012 came to be issued in favour of Smt. Nurzahan, W/o. Subhan. No reasonable explanation is forthcoming as to the circumstances which lead the petitioner to file the present writ petition except stating that notice was affixed to her house. Even accepting the explanation given by the petitioner is correct, the material placed before the Court show that notice refers to construction in Sy.No.66/ 2A, whereas the patta said to have been issued to the petitioner, which is made the basis for claiming

ownership, pertains to land in Sy.No.66-1B. Therefore, the argument of the learned counsel for the petitioner that the authorities are intending to take action on the property which belongs to her appears to be highly improbable and incorrect. In fact, the record shows that earlier one S.Shanwaz filed W.P.No.12320 of 2011, which was disposed of on 14.11.2011 directing the authorities to take action against the respondent No.3 therein ie. Noorjazan, in whose name the impugned notice has been issued and also to see that no further constructions are made.

6) Having regard to the circumstances stated above, I see no grounds in the writ petition and the same is liable to be dismissed.

7) Accordingly, the writ petition is dismissed. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

14.02.2017
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