

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION Nos.45312, 45466 and 45470 of 2016

COMMON ORDER:

These three writ petitions are being disposed of by this common order as the relief sought in these writ petitions is against the same respondents and nature of relief is also same.

2. These writ petitions were filed challenging the action of the respondents 2 to 4 in interfering with the constructions activity in the property belonging to the petitioners situated at Maruthi Nagar, Alwal, Alwal village under Greater Hyderabad Municipal Corporation, Alwal Circle, Malkajgiri Mandal, Ranga Reddy District at the instance of the 5th respondent.

3. The petitioners own various extents of land and they obtained due permission from the Greater Hyderabad Municipal Corporation. Their property is abutting the defence land. After obtaining permission from the Greater Hyderabad Municipal Corporation, they constructed the structures and the construction was nearing completion. An objection was taken by the defence authorities – 5th respondent stating that the they did not follow the Defence Rules with regard to the construction by not maintaining the required distance from the defence land boundary. The petitioners state that they are not aware of the Rules nor the Greater Hyderabad Municipal

Corporation is aware of the same and though G.O.Ms.No.168 Municipal Administration and Urban Development (M) Department, dated 07-04-2012 places a restriction in respect of the property situated within 500 meters from the boundary of the Defence Areas/ Military Establishments for obtaining prior clearance of the defence authorities, the said Government order was amended in G.O.Ms.No.7 Municipal Administration and Urban Development (M) Department, dated 05-01-2016 and what was stated in the latter G.O. is that the applicant had to follow applicable rules prescribed with the defence authorities in their rules. Evidently, no application was made to the defence authorities in the instant case and when the defence authorities noticed the distance of '4 feet 8 inches', less than 10 meters they lodged a complaint with the police alleging encroachment and violation of Defence Rules. On the basis of same the police authorities registered crimes under Sections 447 and 427 of Indian Penal Code.

4. Thus, the above facts clearly show that the petitioners without obtaining any clearance from the defence authorities applied permission to the Greater Hyderabad Municipal Corporation and after obtaining permission, made constructions in their respective lands. There is no encroachment of the defence land but the distance from the boundary of the defence land is not maintained. The

grievance of the defence authorities is also with regard to maintenance of distance from the boundary of the defence land.

5. In the circumstances, learned counsel for the petitioners submits that they would make necessary application to the 5th respondent or to any other competent authority of the Defence Department and as and when they file such an application, the defence authorities may be directed to consider the same and pass appropriate orders on such application.

6. In view of the relief sought for as above, these writ petitions are disposed of, giving liberty to the petitioners to make an appropriate application to the concerned defence authorities seeking clearance/ ratification of the action that was already taken keeping in view the nature of the construction and on receipt of such representation from the petitioners, the defence authorities shall consider the same and pass appropriate orders within a period of three (3) months from the date of receipt of a copy of such representation. In the meanwhile, it is open to the police to make necessary investigation, in accordance with law.

7. These writ petitions are accordingly disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in the Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

February 15, 2017

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