

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.5915 of 2013

ORDER:

Heard learned counsel for parties.

The petitioner prays for Mandamus declaring Endorsement BA.No.232/2012/G1, dated 16-11-2012 issued by the 1st respondent as illegal, arbitrary and unconstitutional.

The petitioner applied for building permission to construct Mosque in the property covered by registered deed dated 19-07-2012. The 2nd respondent filed W.P.No.34327 of 2012. On 05-11-2012, this Court passed the following interim order in W.P.M.P.No.43649 of 2102 in W.P.No.34327 of 2012.

“The petitioner feels aggrieved by the inaction on the part of respondents vis-à-vis the attempt made by respondents 6 and 7 to construct a Mosque in a small area of 25 square yards. In his representation, the petitioner has narrated the various events that have taken place in the recent past and the apprehension to law and order. The petitioner himself is a Muslim.

Under these circumstances, it is directed that respondents 1 to 5 shall ensure that respondents 6 and 7 do not undertake any construction over the site in question, except on the basis of specific permission from the concerned authority.”

Today, the instant writ petition has been taken up and heard along with W.P.No.34327 of 2012.

The counsel for 2nd respondent herein requested the Court to permit the 2nd respondent herein to withdraw W.P.No.34327 of 2012.

Hence, W.P.No.34327 of 2012 has been dismissed as withdrawn.

With the assistance of counsel for petitioner, I have perused the endorsement dated 16-11-2012.

The 1st respondent for two reasons namely having regard to the objections raised by the neighbours and the orders passed by this Court in W.P.No.34327 of 2012, rejected and returned the application of petitioner filed for building permission.

I have perused the counter affidavit filed by the 1st respondent. *Prima facie*, it appears to this Court that one of the reasons namely the pendency of W.P.No.,34327 of 2012 cannot and could not be taken as a valid ground for returning the application. Be that as it may, now W.P.No.34327 of 2012 is dismissed as withdrawn. Therefore, the 1st respondent is under obligation to consider the request of petitioner for construction of Mosque by taking into consideration the law laid down by the Apex Court in the matter of construction of Temples, Mosques, Churches etc., and the instructions issued by the Government from time to time, examine the application and communicate the decision taken thereon.

The petitioner is given liberty to represent to 1st respondent by enclosing a copy of this order and the returned application, for further action in this behalf.

The writ petition is disposed of as indicated above. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 07-03-2017

Pv

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Prv