

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION Nos.29185 AND 30985 of 2017

COMMON ORDER:

Heard Sri Vedula Srinivas, learned counsel for the petitioner and Sri Sampath Prabhakar Reddy, learned Standing Counsel for the respondents.

2. Since these two writ petitions are filed by the same individual and as they are interrelated, this Court deems it appropriate to dispose of these writ petitions by way of this common order.

3. According to the petitioner, he purchased an extent of 358.29 square yards of land in plot No.54/1 in survey No.163 of Mallikarjuna Nagar, Ramachandrapuram Town and Mandal, Medak District by way of a registered sale deed dated 19.02.2015 bearing document No.2891 of 2015. It is further stated that the petitioner submitted an application on 28.02.2015 to the second respondent seeking permission for construction of a house consisting of stilt + 3 floors. The third respondent addressed a letter dated 07.05.2015 to the President of Mallikarjuna Nagar Welfare Association, Ramachandrapuram and the said Association held a meeting of its Executive Body and informed to the third respondent, vide letter dated 10.05.2015, expressing no objection. Vide intimation bearing Lr.No.9733/TP/RCP-PTC/C-13/GHMC/2015, dated 20.08.2015, the third respondent rejected the proposal of the petitioner on the ground that the subject land falls in the open space earmarked for park. Questioning the same, the petitioner filed W.P.No.25519 of 2016 and initially this Court, on 03.08.2016 in WPMP.No.31516 of 2016, granted interim suspension of the order of the third respondent dated 20.08.2015. Subsequently the said writ petition was disposed of by

this Court by way of an order dated 11.07.2017. The operative portion of the said order reads as under:

“7. Considering the above circumstances of the case, this Court is inclined to pass the following order:

The petitioner is directed to make a fresh application through online and by way of a representation along with the required documents on or before 30th July, 2017. On such application/representation being made, the respondents are directed to consider the same and pass appropriate orders as expeditiously as possible.”

4. Thereafter, the petitioner submitted an application for building permission. Vide letter bearing No.3/C13/09317/2017, dated 18.08.2017, the respondents – Municipal Corporation rejected the application of the petitioner on the ground that the proposed site falls in park open space in survey No.163 of Mallikarjun Nagar, Ramachandrapuram as per the Gram Panchayat layout. Questioning the validity of the said order, W.P.No.29185 of 2017 has been filed.

5. Subsequently, the first respondent issued a show cause notice bearing No.9317/Cr-22/WZ/GHMC/2017, dated 30.08.2017, under Section 450 of the Hyderabad Municipal Corporation Act, 1955, calling upon the petitioner to show cause as to why the LRS proceedings issued vide No.LRS/R/66/Cr-13/WZ/GHMC/2008, dated 05.01.2010, shall not be cancelled under Section 450 of the Hyderabad Municipal Corporation Act, 1955, stating that the petitioner has obtained LRS proceedings on material misrepresentation of facts. The said show cause notice is the subject matter of W.P.No.30985 of 2017.

6. According to the learned counsel for the petitioner, the impugned action on the part of the respondents – authorities is highly illegal, unreasonable and violative of Articles 14, 21 and 300-A of the Constitution of India. It is further submitted by the learned counsel that having regularised the plot of the petitioner as long back

as on 05.01.2010, it is not open for the respondents to resort to the impugned action. It is further submitted that the subject land is the absolute property of the petitioner and, as alleged by the respondents, it does not fall under the area earmarked for park.

7. On the contrary, it is submitted by the learned Standing Counsel for the respondents that there is absolutely no illegality in the impugned action and the fate of the building application of the petitioner depends on the outcome of the enquiry now initiated by issuing show cause notice dated 30.08.2017, which is subject matter of W.P.No.30985 of 2017. It is further submitted that it is always open for the petitioner to submit his explanation to the respondents by enclosing the relevant and supporting documents in support of his claim and the respondents will consider the same and appropriate further action will be taken strictly in accordance with law. It is further submitted that since the notice impugned in W.P.No.30985 of 2017 is only a show cause notice, said writ petition is liable to be rejected.

8. This Court finds sufficient force in the submission of the learned Standing Counsel for the respondents. Since the respondents issued only a show cause notice, calling upon the petitioner show cause as to why the LRS proceedings dated 05.01.2010 shall not be cancelled, it is open for the petitioner to submit an explanation to the respondents, enclosing all the relevant and supporting documents in support of his claim, within a period of two weeks from the date of receipt of a copy of this order and, if any such explanation is received, the same be considered and appropriate final action be taken thereon, strictly in accordance with law, after hearing the petitioner, within a period of six weeks thereafter.

9. Accordingly, both the writ petitions are disposed of. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.V. SESA SAI, J

Date: 13.09.2017
TJMR

