

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.1307 of 2018

ORDER:

Heard learned counsel for the petitioner and also the learned Government Pleader for Municipal Administration and perused the prayer in the writ petition with supporting affidavit and other material on record and the impugned show-cause notice, dated 29.12.2017, choosing to cancel the permission already accorded online on 25.09.2017 with conditions incorporated therein of which condition No.1 speaks of the permission to construct a building does not confer ownership rights and permission can be revoked at any later stage, if found the documents or information furnished online is false or fabricated and the commencement notice shall be submitted by the applicant before commencement of the building and permission given based on the inputs of the documents submitted online by the applicant and if anything found, the final approval of proceedings are thereby subject to the correctness of the same on verification of the said documents and the inputs physically. The show-cause notice speaks that they are proposing to cancel the permission supra, dated 25.09.2017, and thereby not to proceed with the construction. So far as the commencement of the building concerned, the Nagar Panchayat very well aware of the commencement even from clause 4 of the permission, dated 25.09.2017, for nothing to show the commencement notice shall be in writing. So far as the proposed cancellation concerned, it is under the guise that it is not the private property of the

individual, but the property vested in the local body i.e., Panchayat-2nd respondent in question. In fact, there is a proceeding in D.Dis.E3/1098/2008, dated 20.11.2015, issued by the Collector and District Magistrate of Prakasam District addressed to the R.D.O., Markapur Mandal, by marking copy to the petitioner's husband stating the land classified as village site referring to G.O.Ms.No.100, dated 22.02.2014, cancelled by G.O.Ms.No.56, dated 16.02.2015, and Gramakantam lands under the possession of private individuals are not government lands and are deleted from the purview of Section 22-A(1) of Registration Act, 1908, as per another G.O.Ms.No.187, dated 27.05.2015.

2. Having regard to the above, for the cancellation, the title over the property is required to be adjudicated, as already a civil suit in O.S.No.570 of 2017 filed by the writ petitioner pending on the file of the Principal Junior Civil Judge, Giddalur, for the relief of permanent prohibitory injunction against respondent No.2 herein and the town planning authority of respondent No.2 herein as defendant Nos.1 and 2 respectively, liberty is given to the writ petitioner by closing the writ petition to amend the prayer in the very plaint for declaratory relief in relation to the property in question, if necessary, for the Court to adjudicate the lis covered by the site in question is the private site of the petitioner or the Nagar Panchayat site of respondent No.2 and in the meantime the respondents shall not demolish any construction including the construction already made is subject to the risk of the

petitioner and subject to ultimate result of the lis covered by the suit.

The amendment shall be made, by virtue of this order, within 15 days from the date of a receipt of a copy of this order by filing appropriate petitions.

3. Accordingly, the writ petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

Dr. B. SIVA SANKARA RAO, J

19th January 2018

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