

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 1396 of 2018

ORDER :

Heard learned counsel for the petitioner, learned Government Pleaders for Panchayat Raj and Home for Respondents 3 to 5 and Respondent No.6 respectively and Sri G. Seshadri, learned Standing Counsel for Respondents 1 and 2.

This Writ Petition is filed for the following substantive relief:

“ declaring the action of the respondents in not allowing the petitioner to construct the building in land admeasuring 150 ft. L x 14.5 ft. W in Survey No. 126 and FLR No. 124/2015 in pursuance of the permission obtained by the petitioner issued in Proceedings B.L.R.No. B/2016-17 dated 17.02.2017 issued by the 1st respondent as arbitrary, illegal and unconstitutional violating Articles 14 and 21 of the Constitution of India and issue consequential directions restraining the respondents from interfering with the construction of the building of the petitioner in land admeasuring 150 ft. L x 14.5 ft. W in Survey No. 126 and FLR No. 124/2015 situated in Vadamalapet Mandal in Chittoor District, in pursuance of the permission obtained by the petitioner in proceedings B.L.R.No. B/2016-17, dated 17.02.2017 issued by the 1st respondent, and allow the petitioner to construct the house in Survey No. 126 and FLR No. 124/2015, situated in Vadamalapet Mandal in Chittoor District in pursuance of the permission obtained by the petitioner in Proceedings B.L.R. No. B/2016-17 ;dated 17.02.2017 issued by the 1st respondent.....”

At the outset, it may be noted that the petitioner had already filed Writ Petition No. 39919 of 2017 for the relief, which reads as under:

“ to grant appropriate relief more in the nature of writ of mandamus under Article 226 of the Constitution of India declaring the notice in Proceedings No. 01/2017, dated 20.11.2017 issued by the 1st respondent as arbitrary, illegal and consequently to set aside the same and issue consequential directions restraining the 1st respondent from interfering with the construction of the house at Survey No. 126/1, Bajararu Street, Vadamalapet Village and Mandal, Chittoor District, in pursuance of the permission granted by the 1st respondent by proceedings B.L.R.No. 8/2016-17, DDA No. 8/2016-17, dated 17.02.2017 and further direct Respondents 3, 4 and 5 to

conduct enquiry with regard to issuing notice in proceedings No. 01/2017 dated 20.11.2017 by the 1st respondent and take appropriate action not only against the 1st respondent but also against the 6th respondent according to law in the event the notice was issued by the 1st respondent at the instance of the 6th respondent”.

The prayer in the present Writ Petition, as extracted above, is identical to the one in Writ Petition No. 39919 of 2017, except that the proceedings dated 17.02.2017 is not mentioned. While ordering notice in Writ Petition No. 39919 of 2017, this Court on 24.11.2017, had made an order in W.P.M.P.No. 49489 of 2017 to the following effect:

“ Heard Sri P.V. Krishnaiah, learned counsel for the petitioner.

It is contended by the learned counsel for the petitioner that the petitioner owns a land admeasuring 150 ft L x 14.5 ft. W in Sy. No. 126 at Vadamalapet Village, Puttur Taluk in Chittoor District and she obtained building permission from the Grampanchayat by paying requisite fee on 17.02.2017 and in pursuance of the said permission, she started construction of a house and 90% of the construction has already been over and at that point of time, the 1st respondent issued a notice on 20.11.2017 alleging that the petitioner constructed the house without valid building permission, and the construction has been declared as unauthorised construction, while directing the petitioner to remove the said construction within seven days.

A perusal of the proceedings dated 17.02.2017 would disclose that the petitioner was granted valid permission for construction of a house. In view of the same, the 1st respondent ought not to have issued a notice for removal of the construction. Hence, issue notice before admission.

Post after four weeks.

Status quo obtaining as on today shall be maintained.”

The cause of action for filing the present Writ Petition is that the respondent authorities have been preventing the petitioner from making further constructions in spite of the *status quo* order granted by this Court. The rest of the averments in the affidavit are with respect to the acquisition of the property and the factum of the petitioner having obtained permission from the gram

panchayat on 17.02.2017. In para 17, what all has been stated is that the respondents, taking advantage of the *status quo* order granted by this Court, have been preventing the petitioner from making further construction. Except stating that the petitioner had incurred a loss of Rs.5 lacs, there is no other justifiable reason for him to file a second Writ Petition seeking the relief identical to the one sought for in the earlier Writ Petition pending before this Court.

If the order of this Court passed in a Writ Petition is not implemented, it is for the petitioner to take necessary steps in the said Writ Petition, but seeking further orders by way of filing another Writ Petition is nothing but misusing the mechanism provided under the Writ Proceedings. In these circumstances, this Writ Petition cannot be entertained and it is therefore, liable to be dismissed.

The Writ Petition is accordingly, dismissed. No costs.

Consequently, the miscellaneous Applications, if any shall also stand closed.

CHALLA KODANDA RAM, J

19th January 2018

kvni/ksld