

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.1663 of 2010

ORDER:

The writ petition is filed questioning the Notice dated 19.01.2010 issued by respondent No.2, and further Proceedings dated 25.01.2010, directing the petitioners to remove the compound wall and other structures without following due process of law as illegal and arbitrary.

The brief facts of the case, according to the petitioners, are that, the petitioners are absolute owners and possessors of the house bearing No.16-2-189 and 190 in an extent of 20,000 square yards, near Subash Statue Kareemabad, Warangal. Initially, they had run the rice and oil mill in the name and style of "Vijaya Lakshmi Rice and Oil Mill" and in the year 2006, the same was closed. Later, the petitioners applied permission for construction of two godowns and respondent No.2 accorded permission vide permission No.144 in Roc.No.G3/7122/2006, dated 18.02.2009 and after construction of godowns, the petitioners thought that the godowns are not feasible and intended to convert the same into two function halls. In this regard, the petitioners submitted an application dated 21.10.2009 to

respondent No.2 to consider their proposal for conversion of godowns into two function halls under the name and style of "Vijayalakshmi Gardens" and on the same day, respondent No.2 issued a show cause notice to petitioners as to why the violated portion/unauthorized construction/effectuated portion should not be removed/pulled down/alterd or amended, in conformity with the sanctioned plan. Thereafter, the petitioners submitted an application dated 04.11.2009 to the District Fire Officer and the District Inspection Committee gave a report dated 07.11.2009, based on which, the District Fire Officer issued provisional no objection certificate and communicated the same to respondent No.2 vide letter dated 07.11.2009. Respondent No.2, issued another notice dated 19.01.2010 to petitioners directing to remove the compound wall from the road affected area and there are some structures raised in the set backs i.e., toilets and temporary rooms, kitchens etc., and also directed them to submit the revised drawings in conformity with G.O.Ms.No.302 MA, dated 15.04.2018 so as to forward the same to KUDA, Warangal, which is the competent authority for allowing construction of the building in industrial area as per Zoning Regulation. Accordingly, the petitioners submitted revised drawings and they have not yet converted the godowns into function halls and operating the same as such. While the matter stood thus,

respondent No.2 issued the impugned notice dated 25.01.2010 directing the petitioners to remove the structures taken up on the setbacks and on the compound wall affected by road widening.

The case of the petitioners is that they submitted a representation dated 21.10.2009 to the respondent authorities requesting to drop all further proceedings proposed under the Act by giving an undertaking to the effect that they will follow all rules in vogue under the Act and the said representation is pending consideration. Hence, this writ petition.

This Court on 02.02.2010 granted interim suspension as prayed for, leaving open to respondent No.2 to consider the petitioners' representation dated 21.10.2009, which is said to be pending as on that date.

Heard learned counsel for petitioners and learned Standing Counsel appearing for respondents.

Learned counsel for petitioners submits that pursuant to the impugned notice, the petitioners had complied with all requirements and submitted relevant documents including revised plans. Further, the petitioners submitted a representation dated 21.10.2009 to respondent authorities and the same is pending consideration.

Learned Standing Counsel appearing for respondents submits that there are illegal constructions affecting the road and the same are not yet removed as the interim order is still subsisting. Further, the representation said to have been submitted by petitioners could not be traced out in the office of respondent No.2.

In such situation, ends of justice would be met, if the petitioners are directed to file a fresh representation before respondent No.2 within a period of two (02) weeks from the date of receipt of a copy of the order. On receipt of such representation, respondent No.2, shall consider and pass appropriate orders in accordance with law, within a period of three (03) weeks thereafter. Till then, status-quo obtaining as on today shall be maintained with regard to the subject property.

With the above observations, the writ petition is disposed of. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date: 06.11.2018
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