

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

I.A.No.1 of 2018

In/And

Writ Appeal No.724 of 2018

COMMON JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard Sri Sai Gangadhar Chamarty, learned counsel for the appellant, Sri B.S.S.Prasad, learned counsel for the 1st respondent-writ petitioner, and Sri Nimmagadda Venkateswarlu, learned Standing Counsel for respondents 3 and 4.

The appellant has invoked our jurisdiction seeking leave to prefer an appeal against the order passed by the Learned Single Judge in W.P.No.12590 of 2018 dated 26.04.2018 directing the Commissioner, Tanuku Municipality to initiate action, under Section 228 of the Andhra Pradesh Municipalities Act, 1965 (for short "the Act"), against the construction being made by the 4th respondent in the writ petition in deviation of the sanctioned plan as admitted by the Commissioner in his notice dated 19.03.2018 issued under Section 217(1) and (2) of the Act. The Commissioner was required to file proof of action taken by him, under Section 228 of the Act, before the Court by 04.06.2018.

Sri Sai Gangadhar Chamarty, learned counsel for the appellant, would submit that the appellant has not even been arrayed as a respondent in the writ petition, though they purchased the subject land from the 4th respondent in the writ petition, by way of a registered sale deed dated 27.09.2017, and had applied for building permission on 30.12.2017; the 4th respondent in the writ petition no longer owns the subject land nor did he apply for building permission; and, even without even stating that the appellant had purchased the land, and had applied for building permission long before the present writ petition

was filed on 06.04.2018, the 1st respondent-writ petitioner had obtained the interim order.

As the order under appeal would result in demolition of the construction raised by the appellant, without they even being put on notice or being given an opportunity of being heard, we are satisfied that leave to prefer an appeal should be granted and the order under appeal should be set aside on this short ground alone.

Sri Nimmagadda Venkateswarlu, learned Standing Counsel for respondents 3 and 4, would submit that the construction raised by the appellant is in violation of the order passed by this Court in W.P(PIL).No.109 of 2018. If that be so, this order shall not disable the 3rd respondent herein from putting the appellant herein on notice, giving them an opportunity of being heard and, thereafter, taking action against them in accordance with law.

I.A.No.1 of 2018, which has been filed seeking leave to appeal, is ordered, the order under appeal is set aside, and the Writ Appeal is allowed. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

02nd May, 2018
JSU

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Date: 02.05.2018