

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.10969 of 2009

Order:

This Writ Petition is filed to declare the action of the respondent in threatening to demolish the building of the petitioner bearing Door No.12-2-11, Ward No.22, Main Road, Ramachandrapuram, East Godavari district, as illegal and arbitrary.

The case of the petitioner is that she has purchased a tiled house in an extent of 88 sq. yards, bearing Door No.12-2-11, situated at Main Road, Ramachandrapuram, East Godavari district in the year 1998; as the said house was in a dilapidated stage, she applied for building permission to the respondent and the respondent has granted permission vide permit dated 19.02.2009; while obtaining the building permission, the petitioner gifted an extent of 3 feet area to the respondent Municipality for laying a road and, in spite of that, the respondent authorities are interfering with her possession; the respondent issued notice under Section 228(1) of the A.P. Municipalities Act (for brevity 'the Act') with an anti date stating that the petitioner has constructed the house in violation of the approved plan; again the respondent issued a notice under Sections 217(3) and 360 of the Act; the notices issued by the respondent are silent about the deviation that was done by the petitioner.

The contention of the petitioner is that the notice issued under Section 228(1) of the Act and the notice issued under Sections 217(3) and 360 of the Act are prepared on the same day and both of them contain the same date i.e., 11.05.2009, hence the said notices are illegal.

Counter affidavit has been filed by the respondent stating, *inter alia*, that at the time of granting permission, the petitioner gave her consent for leaving the requisite site as the said site is abutting the

approved 80' master plan road; the existing main road has been proposed to widen as 80' as per the sanctioned master plan; the petitioner has deviated from the approved plan and encroached the road portion, as such the Municipality has issued the notices dated 11.05.2009.

No reply has been filed by the petitioner denying the contents of the counter.

In view of the categorical statement made in the counter affidavit that the petitioner has given an undertaking to surrender piece of land and she has deviated from the sanctioned plan and encroached upon the road portion, liberty is given to the petitioner to submit a detailed explanation to the notices issued under Sections 228(1), 217(3) and 360 of the Act dated 11.05.2009 within a period of two (2) weeks from the date of receipt of a copy of this order and on filing such explanation the respondent is directed to consider and pass appropriate orders in accordance with law within a period of eight (8) weeks thereafter. If no explanation is filed by the petitioner within the stipulated period, the respondent is at liberty to act in accordance with law.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

KONGARA VIJAYA LAKSHMI, J.

Date: 11.12.2018
 Note:
 Issue CC in one week
 (B/O)
 Nsr

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Nsr