

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.5085 of 2013

ORDER:

This writ petition is filed to declare the inaction on the part of the 1st respondent in taking any action in respect of unauthorized constructions made by respondents 2 and 3 in respect of properties i.e. internal road admeasuring 1394 sq.ft and M.S. Towers building admeasuring 8295 sq.ft. situated in Bhisavilla village, Bhainsa Mandal, Adilabad District, as illegal and arbitrary.

The case of the petitioner is that respondent No.2 has constructed massive complex and encroached upon western side and southern side road to an extent of 5 ft. and 11 ft. in width; due to the said encroachment by respondent No.2, the road has been further narrowed; the entire structures have been constructed in utter violation of the provisions of A.P. Municipalities Act and the sanctioned plan, and as no action has been taken by the 1st respondent, the present writ petition is filed.

Counter affidavit has been filed by the 1st respondent stating that as per the plan submitted by respondent Nos.2 and 3, there is no road on the western side of the petitioner's land and on the southern side also, there is no road; there is deviation from the sanctioned plan and that the respondents 2 and 3 have applied for regularization of the said deviation.

When the matter came up for hearing, learned counsel for the petitioner submitted that the 1st respondent has not taken any action in respect of unauthorized constructions made by respondent Nos.2 and 3.

Learned counsel for unofficial respondents 2 and 3 submitted that the unofficial respondents filed an application seeking regularization for deviations and the same is pending before the 1st respondent. He further relied upon the judgment of the Division Bench of this Court in WP.No.5130 of 2016 and batch dated 18.10.2016.

Heard the learned counsel for the petitioner and the learned counsel for unofficial respondents 2 and 3.

This Court passed order in WP.No.5130 of 2016 & batch to the effect that in case the petitioners therein have submitted applications for regularization on or before 1.3.2016, the respondent Corporation shall not take coercive steps to demolish the illegal structures raised by them till orders are passed on their applications for regularization and the said orders are communicated to them. It was also observed that it was open to the Municipal Corporation in such of those cases where applications for regularization are rejected, to initiate action for demolishing the subject structures in accordance with provisions of the GHMC Act and the rules and bylaws made thereunder. It was further observed that, in such of those cases where the applications seeking regularization have not

been submitted before 1.3.2016, it is open to the Municipal Corporation concerned to take action, for demolition of the illegal structures, in accordance with law.

In view of the orders passed by the Division Bench in WP.No.5130 of 2016 & batch dated 18.10.2016, the 1st respondent herein shall not take coercive steps to demolish the illegal structures till orders are passed on the applications of the respondents 2 and 3 for regularization. It is also made clear that if the application has not been submitted before 1.3.2016, it is open to the Municipal Corporation to take action, in accordance with law. As the learned counsel for the petitioner submitted that he has issued a legal notice on 21.6.2012 to the Commissioner, Bhainsa Municipality, Bhanisa, raising all the objections, the 1st respondent shall consider the same, after giving opportunity of hearing to the petitioner and respondents 2 and 3 and pass appropriate orders on the applications filed by the respondents 2 and 3 seeking regularization.

With the above directions, the Writ Petition is disposed of.
No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date: 06/12/2018

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