

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

I.A.No.3 of 2018 in I.A.No.2 of 2018 in WP.No.25029 of 2018

&

I.A.No.4 of 2018 in I.A.No.1 of 2018 in WP.No.25029 of 2018

And

W.P.No.25029 of 2018

COMMON ORDER :

Heard the counsel for petitioner, the learned Government Pleader for Panchayat Raj for respondent nos.1 and 2, Sri G. Narender Reddy, counsel for respondent nos.3 and 4, and Sri Y. Rama Rao, counsel for respondent nos.5 to 8.

2. The petitioner had applied to the 3rd respondent for grant of permission to build a compound wall surrounding his land admeasuring Acs.1.19 ½ gts. in Survey No.36 of Satamrai Village, Shamshabad Mandal, Ranga Reddy District.

3. After satisfying itself about the *prima facie* title of the petitioner, on 04.12.2017, the respondent nos.3 and 4 granted permission to petitioner to construct the said compound wall.

4. After the compound wall construction commenced and had progressed to a considerable level, suddenly on 09.07.2018, the 4th respondent issued the impugned order canceling the building permission granted to petitioner on 04.12.2017 on the pretext that Case No.B/3418/2018 was pending before the Tahsildar, Shamshabad.

5. Since there was no prior notice given to petitioner by the 4th respondent, on 19.07.2018, this Court granted interim suspension of the order dt.09.07.2018 passed by the 4th respondent, in I.A.No.1 of 2018 in WP.No.25029 of 2018.

6. The respondent nos.5 to 8 filed I.A.No.4 of 2018 to vacate the order dt.19.07.2018 passed in I.A.No.1 of 2018 in WP.No.25029 of 2018.

7. The Court also suspended on the same day, i.e., 19.07.2018, in I.A.No.2 of 2018 in WP.No.25029 of 2018, an earlier order dt.04.04.2018, issued by the 4th respondent asking the petitioner to stop construction.

8. The respondent nos.5 to 8 filed I.A.No.3 of 2018 to vacate the order dt.19.07.2018 passed in I.A.No.2 of 2018 in WP.No.25029 of 2018.

9. The counsel for Vacate Stay petitioners sought to contend that the Writ Petitioner obtained permission to make construction by suppressing the fact that there was litigation pending before the Tahsildar, Shamshabad, and therefore, the 4th respondent was entitled to pass the orders dt.04.04.2018 and 09.07.2018. He also contended that there is an appeal against the order dt.09.07.2018 to the District Collector under the Telangana Panchayat Raj Act, 2018, and the petitioner could have as well availed the same instead of approaching this Court invoking Article 226 of the Constitution of India

10. Both the counsel for Vacate Stay petitioners as well as the Standing Counsel for respondent nos.3 and 4, Sri G. Narender Reddy, did not dispute that the 4th respondent had violated the principles of natural justice, and that they have not given any show-cause notice to petitioner proposing to cancel the permission for constructing the compound wall granted to petitioner on 04.12.2017.

11. In this view of the matter, the respondents cannot contend that the petitioner should not approach this Court under Article 226 of the Constitution of India and should only avail the appellate remedy, because it is settled legal position that existence of alternative remedy is not a bar to entertain the Writ Petition when there is violation of principles of natural justice.

12. That apart, it is also not in dispute that on 17.08.2018, the Tahsildar, Shamshabad has passed orders in proceedings No.B/3418/2017 rejecting the claim of the Vacate Stay petitioners for mutation on the ground that they had sought such relief with a delay of 60 years.

13. This is also not disputed by the counsel for Vacate Stay petitioners.

14. Therefore, the very basis for the orders dt.09.07.2018 and 04.04.2018, viz., pendency of proceedings before the Tahsildar, Shamshabad, has now gone.

15. In this view of the matter, the Writ Petition is allowed. The respondents are directed not to interfere with the compound wall constructed by the petitioner pursuant to the permission granted to petitioner on 04.12.2017. Consequently, the orders dt.04.04.2018 and 09.07.2018 of the 4th respondent are set aside.

16. The Vacate Stay petitioners are granted liberty to approach the competent Civil Court for appropriate relief, and if they do so, the same shall be decided without reference to any observations made in this order.

17. Accordingly, the Writ Petition is allowed. Consequently, I.A.No.4 of 2018 to vacate the order dt.19.07.2018 passed in I.A.No.1 of 2018 in WP.No.25029 of 2018; and I.A.No.3 of 2018 to vacate the order dt.19.07.2018 passed in I.A.No.2 of 2018 in WP.No.25029 of 2018, are dismissed. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 25.09.2018

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