

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.28368 AND 37832 OF 2018

COMMON ORDER

The case of the petitioner, as per the averments made in the affidavits filed in support of the writ petitions is that the Municipal Corporation of Hyderabad acquired the land in an extent of Acs.20.33 gunts in various survey numbers in Bathkammakunta, Baghamberpet, Hyderabad, for the purpose of housing project and the vendors of the petitioner was allotted the plot Nos. 107 and 89 by the Municipal Corporation under registered sale deeds and in turn, petitioner purchased them under registered sale deeds dated 12.06.2013. After obtaining necessary permission from the GHMC, vide permit No.3/C20/06686/2017 dated 21.07.2017, he started construction. Aggrieved by the action of the respondents 6 and 7 – Tahsildar and Station House Officer, Amberpet Station, Hyderabad, in interfering with his construction activity, petitioner filed W.P.No.28368 of 2018.

This court on 14.08.2018, while posting the matter after two weeks, directed that in the meanwhile, any action is to be initiated by the respondents for the alleged encroachment by the writ petitioner, the same shall be initiated in accordance with law.

In pursuance of the above interim orders of this court dated 14.08.2018, 6th respondent – Tahsildar, issued notice dated nil-09-2018 No.B/1508/2017, to the petitioner, stating that on verification it is found that part of the subject land in an extent of 38 sq. yards falls in T.S.No.4, Block – A, Ward – 163, which is classified as Government land and therefore, he was directed to stop the illegal construction in Government

land immediately, otherwise, action will be taken in accordance with law. Challenging the said notice, petitioner filed W.P.No.37832 of 2018.

Learned counsel for the petitioner, while reiterating the above facts, further submit that based on Town Survey Land Register (TSLR) entries, the 6th respondent claims that part of the subject plots i.e., an extent of 38 sq. yards, as Government Lands. He contends that TSLR entries cannot be relied upon to trace title and in support of this contention, he relied on the judgments of learned Single Judge of this court reported in *SYED HAFEEZ v. GOVT. OF A.P.*¹ and *G.SATYANARAYANA v. GOVERNMENT OF ANDHRA PRADESH*². He submits that in W.P.No.28368 of 2018, this court passed interim order dated 14.08.2018 directing that any action sought to be initiated, shall be in accordance with law. But the 6th respondent – Tahsildar, in violation of the said order and without giving opportunity to the petitioner, straight away issued the impugned notice, declaring that the part of the subject land as Government land and that the construction undertaken by the petitioner, which was after obtaining necessary permission from the Municipal Corporation, as ‘illegal’ and asked the petitioner to stop construction. He submits that petitioner is not making any construction in the Government land and that the impugned notice, which is in violation of principles of natural justice, is liable to be set aside. He submits that petitioner has filed representation dated 09.10.2018, but the respondent No.6 has not taken any action and the petitioner apprehends that respondent No.6 with the assistance of 7th respondent – Station House Officer, may demolish the structures without opportunity to the petitioner.

¹ 2014(1) ALT 455

² 2014(3) ALT 473

On the other hand, the learned Assistant Government Pleader for Revenue, on instructions, submits that on verification of survey and land records, part of the subject land was found to be Government land and as the petitioner is constructing in the Government land, as per the interim directions of this court in W.P.No.23868 of 2018 dated 14.08.2018, he was issued with the impugned notice to stop construction and that the authorities would take action in accordance with law.

In this case, it is to be seen that this court in W.P.No.28368 of 2018 dated 14.08.2018 passed interim order directing that any action sought to be initiated, shall be in accordance with law. Impugned notice contemplates action in accordance with law and the learned Assistant Government Pleader for Revenue, on instructions, emphasis that 6th respondent will take action by duly following the procedure established by law, after giving opportunity to the petitioner.

In view of the above facts and circumstances and the submissions of the learned counsel, both the writ petitions are disposed of giving liberty to the petitioner to make fresh representation along with relevant documents, within a period of two weeks from today and the thereupon, the 6th respondent is directed to dispose of the same in accordance with law, after affording opportunity of hearing to the petitioner. Depending upon the outcome of the said decision, 6th respondent shall take further action. Till then, no coercive steps shall be taken against the construction already made by the petitioner in the subject property.

Interlocutory applications pending, if any, shall stand closed.

A. RAJASHEKER REDDY, J

DATE: 29—10—2018
AVS