

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.17148 of 2011

ORDER:

The relief sought for in the Writ Petition is to declare the proceedings dated 17.09.2010, of the Commissioner, GHMC, as arbitrary and illegal. By the said letter dated 17.09.2010, the second respondent was accorded permission for construction of a building.

The petitioner contends that he and his son are owners of the adjacent plots for the past several decades; by subterfuge the 2nd respondent had obtained municipal permit; the 2nd respondent had, successfully, managed to obtain all sanctions both for construction as well as for amenities by showing the petitioners municipal numbers; and, therefore, the GHMC should be directed to take action against the second respondent.

In the counter-affidavit, filed by the Chief City Planner, GHMC, it is stated that, pursuant to the permit dated 17.09.2010, the 2nd respondent had completed construction of the commercial complex; he had submitted an application on 15.04.2011 for grant of occupancy certificate; and the request was pending approval awaiting clearance from the Fire Service Department. While the counter-affidavit was filed on 30.08.2011, it is not clear what transpired thereafter.

Be that as it may, while granting permission for construction, the Municipal Corporation does not adjudicate disputed questions of title. As the petitioner claims that permission was granted on land belonging to them, it is always open to them to avail the common law remedy of filing a Civil Suit before the competent Civil Court for

declaration of title or for permanent injunction, and to have these disputed questions of fact resolved by the Civil Court.

Leaving it open to the petitioner to do so, I see no reason, at this belated stage as more than seven years have elapsed in the interregnum, to set aside the permit issued on 17.09.2010.

The Writ Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

Date: 09.03.2018

MRKR

