

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.38124 OF 2018

Date:25.10.2018

Between:

Kappagantula Venkateswarlu,
S/o. Late Sri K. Venkayya,
Aged about 83 years, R/o. Flat No.315,
Prithvi Block, My Home Navadeepa
Complex, Madhapur, Hyderabad

.. Petitioner

And

The State of Telangana, Department of
Panchayat Raj, Secretariat, Saifabad,
Hyderabad, rep., by the Principal
Secretary and others

.. Respondents



The Court made the following:

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ORDER:

Heard.

2. This Writ Petition is filed challenging the action of the Gram Panchayat in illegally demolishing the compound wall constructed by the petitioner on the property purchased by him in open auction conducted by the HUDA and such action of the respondent – Gram Panchayat in demolishing the compound wall without following due process would amount to arbitrary exercise of power and the same is illegal.

3. To appreciate the contention, learned counsel for the petitioner was asked to show that petitioner has applied for building permission to construct a compound wall as required by the Telangana Gram Panchayat Land Development (Layout and Building) Rules, 2002 notified vide G.O.Ms.No.67, Panchayat Raj and Rural Development, dated 26.02.2002. In response, learned counsel for the petitioner would submit that petitioner has only constructed a compound wall and there is no requirement for building permission. Section 2 (3) of the Telangana Panchayat Raj Act, 2018 (for short, 'the Act, 2018'), defines the 'building' as under:

“‘building’ includes a house, out-house, shop, stable, latrine, shed (other than a cattle shed in an agricultural land), hut, wall and any other such structure whether of masonry, bricks, wood, mud, metal or other material whatsoever”

4. A bare reading of Section 2 (3) of the Act, 2018 would make it clear that any structure with masonry work would amount to building. The construction of a compound wall includes masonry work and therefore it is a building and building permission has to be obtained as per the Rules. Admittedly, no building permission was obtained by the petitioner. When petitioner has not followed the statutory mandate and without obtaining building permission constructed the compound wall, he cannot complain that the Gram Panchayat is removing the illegal construction made by him.

5. Be that as it may, the illegal construction was substantially removed and as the petitioner did not obtain building permission, no relief as sought for by him can be granted. However, liberty is granted to the petitioner to apply for construction of a compound wall and on making such application, the competent authority shall consider the same and take appropriate decision as warranted by law. If such application is made by the petitioner within two weeks, the Gram Panchayat, the 4th respondent, shall consider the said application and take appropriate decision within two weeks thereafter.

6. The Writ Petition is accordingly disposed of. Pending Miscellaneous Petitions, if any, shall stand closed.

P. NAVEEN RAO, J

Date: 25.10.2018

Note:- Issue C.C. by two days.

(B/o)

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