

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 5203 OF 2019

ORDER:

In this Writ Petition, the petitioner questions the inaction of the official respondents on the unauthorised and illegal constructions carried out by the 5th respondent over H.No. 2-5-211, situated at Badka Mohalla Locality of Adilabad District, allegedly encroaching the public lane and drainage system as well as the property of the petitioner.

Heard learned counsel for the petitioner and Sri N. Praveen Kumar, learned Standing Counsel for Respondents 3 and 4.

A perusal of the material on record does not disclose that the petitioner had made any effort to verify, as a matter of fact, whether the 5th respondent approached the Municipal Authorities and obtained permission for making construction or not. Without doing so, the petitioner seeks this Court to direct the official respondents to take action alleging that the 5th respondent is making constructions without obtaining permission and encroached into half of the lane.

On the other hand, in the letter addressed to the District Collector by one Sri Shaik Abrar, it is stated that permission was granted on 15.02.2019, whereas in the affidavit filed in support of the Writ Petition, it is stated otherwise. As the petitioner has not approached this Court with due diligence as is required, at the first instance, this Court is not inclined to issue notice to the respondents to verify whether permission was obtained by the 5th respondent or not.

It is fundamental on the part of the person, who seek a *mandamus*, to prove that he has a right and that he approached the authorities concerned asserting his right by placing the material and it is only thereafter, he approached this Court with all those material complaining inaction.

As stated supra, the petitioner did not make such effort, but directly approached this Court merely dropping a representation with the respondent authorities. In those circumstances, this Court is not inclined to issue a *mandamus* directing the authorities to consider and pass *ex parte* orders on the representation of the petitioner.

As the petitioner had failed to perform his part of the duty before approaching the Court by exercising due diligence, the Writ Petition is dismissed. The petitioner, however, is given liberty to approach the appropriate authority and satisfy them by placing relevant material with respect to the alleged constructions made by the 5th respondent. As and when such material is placed, if the Authority does not act, he is at liberty to avail the remedies in accordance with law. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

13th March 2019

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