

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 7351 of 2019

ORDER:

The petitioner alleges inaction on the part of 3rd respondent on his representation dated 16.03.2019 complaining about the illegal and unauthorised construction being made by unofficial respondents 4 and 5 in Premises No.2-5-38, Kummari basthi, Macha Bollarum, Secunderabad.

2. Heard Sri Srinivas Polavarapu, learned counsel for the petitioner, and Sri Chatla Madhu, learned Government Pleader for Municipality.

3. 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 respondents 4 and 5 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 on the representation dated 16.03.2019 filed by him alleging that respondents 4 and 5 are making constructions without permission and encroached into his property. Furthermore, the writ petitioner, on the one hand, avers that respondents 4 and 5 are making constructions, albeit illegal and authorised, in their own site; and on the other, makes a contradictory averment that they encroached into his premises to certain extent. In case respondents 4 and 5 encroached into the petitioner's property, as alleged, the proper relief for him would be to approach competent Civil Court and obtain appropriate injunctive relief against the respondents. As the petitioner has not approached this Court with due diligence as is required in the first place, notices need to be issued to the

official respondents to verify whether respondents 4 and 5 have obtained building permission or not.

4. It is fundamental on the part of the person seeking a *writ of 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.

5. The Writ Petition is dismissed. However, the petitioner is given liberty to approach the appropriate authority and satisfy them by placing relevant material with respect to the alleged constructions made by respondents 4 and 5. 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 also stand dismissed.

CHALLA KODANDA RAM, J

08th April, 2019

KSM

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