

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.7789 of 2019

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development for the 1st respondent and Sri N. Praveen Kumar, learned Standing Counsel for the 2nd respondent.

2. The petitioner challenges the notice dated 01.02.2019 issued by the 2nd respondent keeping in abeyance the mutation proceedings sanctioned in her favour with respect to the property bearing H.No.7-3-37/1 situated at Nirmal Town, Nirmal District, as illegal and arbitrary.

3. The petitioner asserts that she is the absolute owner and possessor the aforesaid property and that she had purchased the open space on the north of the Officer's Club compound wall through registered sale deed dated 17.07.1958 from Mr.N. Gangadhar Goud, and that on her application, the said open space was mutated on her name in the municipal records and construction permission was also granted in her favour. She further asserts that as she leased out the said premises, there were civil proceedings before the various Courts including Second Appeal before this Court and that the 3rd and 4th respondents having failed their attempts had approached the Municipal Authorities for cancellation of mutation in her name, pursuant to which, a notice was issued to her on 05.01.2019, for which, she has submitted a

detailed explanation on 11.01.2019 setting out the details of earlier proceedings and asserting that the possession of the property was granted to her pursuant to the orders of the Division Bench of this Court. As a matter of fact, the alleged mutation granted in favour of the 3rd and 4th respondents was cancelled. In those circumstances, issuance of the impugned notice again to the petitioner at the instance of the 3rd and 4th respondents is illegal. The petitioner also asserts that she being an old aged woman of about 80 years has been harassed by the 3rd and 4th respondents.

4. Learned counsel for the petitioner submits that though the petitioner has submitted a detailed explanation, the 2nd respondent, without considering the same, has issued the impugned notice, which is illegal and arbitrary.

5. On the other hand, learned Standing Counsel would submit that as per the impugned notice, no decision has been taken by the respondents as on date and that the 2nd respondent having taken note of the explanation submitted by the petitioner on 11.01.2019 and also the earlier proceedings kept the matter in abeyance and therefore, there is no cause of action to the petitioner to challenge the impugned notice at this point of time.

6. Having regard to the respective submissions, the relevant portion of the impugned notice is extracted as under;

“In the reference to the cited, both the parties’ requests are examined and after thorough verification/examination into the case with reference to the record, action taken by the then Commissioners and the Honourable Court’s judgment, further action will be intimated.

Therefore, till the action will be taken, the case is kept in abeyance”.

As can be seen from the above extracted portion of the notice, the submission made by the learned Standing Counsel that no decision is taken by the respondents as on date, is tenable. It appears that as there was civil dispute with respect to the title of the subject property as per the earlier proceedings, the 2nd respondent kept the matter in abeyance. Admittedly, mutation was granted in favour of the petitioner long back and the impugned notice cannot be construed as keeping the mutation proceedings in abeyance. In those circumstances, at this point of time, there is no cause of action for the petitioner to challenge the notice as the entire case is kept in abeyance by the 2nd respondent.

7. Accordingly, the Writ Petition is closed. However, this order shall not preclude the petitioner from approaching the appropriate authorities in the event any adverse order is passed against her. No order as to costs.

8. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

CHALLA KODANDA RAM, J

15th April, 2019

sj