THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.7975 of 2019

ORDER:

Heard learned counsel for the petitioners, Sri Sampath Prabhakar Reddy, learned Standing Counsel for respondents 1 and 2 and learned Government Pleader for Municipal Administration and Urban Development for respondent No.3.

2. This writ petition is filed seeking to quash the proceedings of the 2nd respondent dated 26.03.2019 and to direct the respondents not to interfere with the construction work made by the petitioners, in accordance with the sanctioned plan dated 14.02.2019, in Plot Nos.92 and 92/1 in Sy.No.121 (p) of Kukatpally Village and Mandal, Medchal District.

3. The facts, in brief, are that the petitioners had purchased plot Nos.92 and 92/1 (Old H.No.2-22-112 and H.No.2-22-120/A) in Sy.No.121(p) at K.R.B.Nagar, Kukatpally (Present Navodaya Colony), Kukatpally Mandal, Medchal District, through registered sale deeds dated 30.01.2018 and 12.02.2018 vide document Nos.1179 and 1178 of 2018 respectively. The petitioners assert that the subject land was purchased by their vendors through registered sale deeds from one K.R.Babaiah Nagar Cooperative Housing Society Limited. They further assert that when they applied for building permission, the 2nd respondent granted permission for construction of stilt + four upper floors vide permit dated 14.02.2019, according to which, while the petitioners were proceeding with the construction, the 2nd respondent issued notice on 11.03.2019 stating

that as per the revised approved final layout vide permit No.12091/MPU/HUDA/1982 Dated 31.05.1988, the area admeasuring 1466.66 sq. yards, is a layout park open space meant for public purpose and that the building permission granted in favour of the petitioners is in the land earmarked for park and called upon the petitioners to show cause as to why the building permission on the park open space should not be cancelled on account of the misrepresentation of the facts. Thereafter, the petitioners made a representation on 22.03.2019 seeking ten days' time for submitting the details. However, the 2nd respondent vide impugned notice dated 26.03.2019, has rejected the request of the petitioners asserting that the petitioners had failed to submit explanation within the stipulated time and also failed to produce any authentic documents to prove that their site is not situated on the layout open space and further, there is no denial of the revised approved final layout of HUDA and thus, the building permission granted in their favour was cancelled on the ground that they had obtained the same on material misrepresentation of facts.

4. Learned Senior Counsel for the petitioners, Sri Vedula Venkata Ramana, would submit that as per Section 450 of the Greater Hyderabad Municipal Corporation Act, 1955, the Municipal Authorities are not authorized to enquire into the possession or otherwise of the property. He would further submit that while issuing the impugned notice, the respondents have failed to furnish the revised approved final layout, which is the basis of the said notice, to the petitioners. Learned senior counsel would further submit that if

there is any dispute with regard to the said site, the petitioners being owners can agitate before the appropriate forum with respect to their title and that cancellation of building permission on the complaint made by the third party is illegal. He would also submit that the action of the respondents in not granting ten days' time, as sought for by the petitioners, is in violation of the principles of natural justice.

5. On the other hand, learned Standing Counsel would submit that in spite of the show cause notice, the petitioners had failed to avail the opportunity given by the respondents and that as the petitioners received the notice, the respondents have no option to issue the impugned notice based on the available material. He would further submit that the petitioners never made a request to the respondents to furnish the revised approved final layout and that if they make any request, the said copy will be furnished to them. He also reiterated the contents of the impugned notice and prayed for dismissal of the writ petition.

6. Having regard to the respective submissions, there is no dispute, even as per the impugned notice, the petitioners sought ten days' time for submitting the explanation. In their letter dated 22.03.2018, the petitioners stated that as per the information gathered, they noticed that the constructions made by the others in the said area are against the conditions of the municipal permits and on various irregularities and ultimately, they sought 10 days' time for gathering details of illegal constructions made by the complainant-Mr. K. Srinivas.

7. In view of the above, without going into the merits of the matter, as the petitioners sought 10 days' time, no prejudice would be caused to the respondents if the same is granted. However, as there is a specific allegation in the impugned notice that the complainant-Mr. K. Srinivas had furnished revised approved final layout with permit No.12091/MPU/HUDA/1982 dated 31.05.1988, the respondents shall provide a copy of the said plan to the petitioners, within four days from today, to enable them to submit their explanation. On receipt of the said plan, the petitioners shall submit their explanation within ten days thereafter. Further, on receipt of the explanation submitted by the petitioners, the respondents shall pass final order within ten days thereafter. Till such time, the respondents shall not initiate any action against the property of the petitioners, who also shall not make any construction thereon.

8. Subject to the above, the Writ Petition is allowed, setting aside the impugned notice dated 26.03.2019, passed by the 2nd respondent. No order as to costs.

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

CHALLA KODANDA RAM, J

16th April, 2019
Note:
Issue cc tomorrow.
sj