

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.8450 of 2019

ORDER:

The petitioners challenge the action of respondents 2 and 3 in granting building permission dated 15.11.2018 in favour of respondent No.4 and 5, to construct a residential complex, consisting of Cellar, Stilt plus five floors, as illegal and arbitrary, and also violative of the order passed by this Court in W.P.No.15390 of 2009, dated 06.03.2017.

Learned counsel for the petitioners submits that litigation with respect to the land admeasuring Ac.2-29 guntas, and Ac.1-31 guntas, in Survey No.150 and 151 of Yapral Village, Vallabhnagar Taluk, Malkajgiri Mandal, Ranga Reddy District is pending. He submits that O.S.No.319 of 1996 was filed before the I Additional Senior Civil Judge, Ranga Reddy District, seeking specific performance of agreement of sale. As the suit was decreed, appeals in A.S.No.498 of 2005 and A.S.No.521 of 2005 were filed before this Court, which were disposed of by a Common Judgement on 19.02.2018. Challenging the same, S.L.P.No.16457 of 2018 was filed before the Supreme Court and the same was dismissed on 17.05.2018. The learned counsel further submits that O.S.No.622 of 2008 was filed before the XIV Additional District and Sessions Judge, Ranga Reddy District, seeking partition of the property, and the suit was decreed. Challenging the same, A.S.No.1094 of 2016 was filed before this Court and the same is pending.

Learned counsel further asserts that, from time to time, there was some order or the other in the civil proceedings as well as in W.P.No.15390 of 2009 before this Court. In spite of all this litigation and in spite of the

orders passed by this Court in W.P.No.15390 of 2009, dated 06.03.2017, directing to mark the subject land as “under dispute till A.S.No.1094 of 2016 is decided by this Court”, the municipal authorities granted the impugned construction permission on 15.11.2018 in favour of respondents 4 and 5 who are subsequent purchasers. In those circumstances, the petitioners pray to set-aside the building permission dated 15.11.2018 granted in favour of respondents 4 and 5.

On the other hand, Sri Chatla Madhu, learned Standing Counsel appearing for the 2nd respondent-Corporation, while making reference to the orders of this Court, particularly, A.S.No.1094 of 2016, submits that in none of the proceedings, neither the municipal authorities nor respondents 4 and 5 are parties before the Court. He further submits that as the municipal Corporation does not have a system of maintaining Caveat Register with respect to disputes in relation to properties, for which construction permissions are sought, granting of impugned permission by the Corporation on the Application made by respondents 4 and 5, in such a situation, cannot be found fault with. The learned Standing Counsel, however, submits that as the petitioners have, for the first time, brought these aspects to the notice of the authorities on 12.03.2019, the same would be considered, in accordance with law, after issuing notice to respondents 4 and 5.

Having regard to the respective submissions, without expressing any opinion on the merits of the matter, as the petitioners challenge the permission granted in favour of respondents 4 and 5; and considering that in terms of the Greater Hyderabad Municipal Corporation Act the 2nd respondent-Commissioner has jurisdiction to enquire into and take appropriate action, the writ petition is disposed of with a direction to the

2nd respondent-Commissioner to consider the complaint dated 12.03.2019 submitted by the petitioners against respondents 4 and 5, and dispose of the same, by strictly following the procedure prescribed under law, within a period of six weeks from the date of receipt of a copy of this order, by putting on notice respondents 4 and 5 and giving them sufficient time. No costs. Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE CHALLA KODANDA RAM

23rd April, 2019

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