

HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.11159 of 2017

ORDER:

The case of the petitioner is that the 5th respondent-his younger brother and his father during his lifetime purchased a house bearing No.1-267 situated at Mothukur Village, Yadadri District, previously Nalgonda District and said property was not yet partitioned despite request made by the petitioner and the same is in their joint possession. It is also his case that the 5th respondent without his consent and permission demolished a portion of the said premises and proceeding with the construction without even obtaining any valid permission from the respondent authorities and when he approached the respondent authorities to stop the construction, they paid deaf ear and reluctant to give any response. It is also his case that he made representation before the respondent authorities on 03.03.2017 requesting them to prevent the 5th respondent from making the unauthorized construction, the respondent authorities have not taken any action in spite of his repeated requests. Aggrieved thereby, the present writ petition is filed.

2. When the matter listed on 21.06.2017, this Court directed to post the matter on 06.07.2017, in the meantime the 5th respondent shall not be allowed to make any further constructions. Thereafter, the matter underwent several adjournments and the matter is listed on 03.01.2018, the vacate petition filed by the 5th respondent came up for hearing and this Court observed that when the interim order expired on 06.07.2017 and there is no

extension of interim order, the question of vacating the interim order does not arise.

3. Learned counsel for the petitioner submits that without any permission the 5th respondent is making construction and the learned Standing Counsel Sri G.Narender Reddy submits that when the 5th respondent was making construction without permission, basing on the interim orders passed by this Court they have stopped construction.

4. Learned counsel for the 5th respondent submits that as the interim order was only till 06.07.2017 and when the vacate petition came up for hearing on 03.01.2018, this Court observed that interim order was in operation till 06.07.2017, as such the 5th respondent completed the construction as on today by virtue of the deeming provision under proviso to Section 127(3) of Panchayat Raj Act 1994 made an application on 01.12.2016 and the 3rd respondent has already passed order on 02.12.2016 and thereafter no orders were passed. As such, by virtue of proviso to Section 127(3) of the Panchayat Raj Act 1994, the 5th respondent started the construction. He also stated that originally the property belongs to the father of the petitioner and thereafter partition took place between the petitioner and the 5th respondent. By suppressing the said facts, the present writ petition was filed and as such, the writ petition is liable to be dismissed.

5. It is to be seen that since the interim order was not extended beyond 06.07.2017 and since it is stated that the 5th respondent completed the construction by virtue of the deeming provision, now the question of stopping the construction does not arise.

6. In view of the same, since the construction is completed, if any action is to be taken on the construction made by the 5th respondent, the 3rd respondent has to follow due process of law.

7. Accordingly, this Writ Petition is disposed of with a direction that if there is any unauthorized construction made by the 5th respondent, the 3rd respondent to take appropriate action by following due process of law. No costs.

Miscellaneous petitions, if any, shall stand closed.

A. RAJASHEKER REDDY, J

Date: 14.11.2019
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