

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.12578 OF 2019

DATED :25.06.2019

Between :

Bura Vijay Kumar S/oRajamoluli,
Age 34 yrs, Occu : Business,
R/o1-7-326/2/1, Pragathi Nagar,
Revenue Colony, Subedari,
Hanamkonda, Warangal.

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Petitioner

And

The State of Telangana,
Rep., by its Principal Secretary,
Municipal Administration & Urban Development Department,
Secretariat, Hyderabad & others.

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Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioner, learned Government Pleader for respondent No.1 and learned Standing counsel for respondent No.2.

2. Petitioner claims to be owner and in possession of land to an extent of 200 Sq yards in Survey No.588/C, Waddepally Village, Hanamkonda Mandal, Warangal Urban District, having purchased the same through registered sale deed bearing document No.27085 of 2018 dated 28.12.2018. Petitioner now alleges that his neighbours/respondents 3 and 4 encroached into his property and making illegal construction. On 11.01.2019 petitioner filed a complaint followed by another complaint on 21.01.2019, alleging inaction on the said complaints, this writ petition is filed.

3. On reading of the complaints of petitioner, it is seen that petitioner admits the factum of municipal corporation granting building permission and unofficial respondents undertaking construction in terms thereof. However, petitioner alleges that in terms of the sale deed, the property vests in him and no manner of right vests in unofficial respondents to encroach into his land and undertake construction, therefore, requested the Warangal Municipal Corporation to look into title aspect and then decide the matter.

4. Learned counsel for the petitioner also contends that petitioner made representations bringing to the notice of respondent-Municipal Corporation that by playing fraud false documents are created and based on those false documents and misrepresentation, building permissions were obtained. Petitioner asserts in Paragraph No.8 of the affidavit that he reserves his rights to initiate appropriate civil proceedings for declaration of his title over the property, whereas action is required to be taken under Section 450 of the Greater Hyderabad Municipal Corporation Act (GHMC Act). Since petitioner has the remedy available under Section 450 of the GHMC Act, and the same was availed by submitting representations on 11.01.2019 and 21.01.2019 respondents ought to have considered those representations and non consideration of the same amounts to improper exercise of power to act on the representations. He would submit that it is another thing if respondent-Corporation asserts that it is not inclined to entertain the application to exercise power under Section 450 of GHMC Act, in such an event petitioner can avail appropriate remedy as available to him.

5. A reading of the representations would show that petitioner alleges that one Ranadheer Reddy created false documents and basing upon such documents, without having any right and by misleading the authorities, he obtained construction permission and with such permission, construction cannot be undertaken.

6. In other words there appears to be *inter se* dispute between the petitioner and unofficial respondents. Whether there was creation of false documents and based on such false documents building permission was obtained is a matter which can be gone into appropriate proceedings. Accepting the plea of petitioner would amount to going into the validity of title claim of a person who obtained building permission and examining the correctness of the documents minutely. Such course is not available to Municipal Corporation. Section 450 of the GHMC Act is attracted only when on the face of it, fraud is played or misrepresentation is made to obtain building permission as stated by petitioner. In paragraph No.8 of the affidavit petitioner himself reserves his right to avail appropriate civil law remedy to seek declaration of his title over the property and consequential relief.

7. In the facts of this case, therefore it cannot be said that not acting upon the representations would be amounting to illegal exercise of power. Thus, leaving it open to the petitioner to work out his remedies with reference to alleged creation of false documents and undertaking construction by encroaching into the property of petitioner, the Writ Petition is dismissed. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

25th June, 2019
Rds