

THE HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITIOIN No.16776 of 2019

ORDER:

Heard.

2. Petitioner claimed to be a resident of Gandhinagar in Hyderabad. According to petitioner, in the said locality within a walkable distance of petitioner's house, the 5th respondent is undertaking construction of Ground + Five floors on a land covering area of 6704.72 sq. yds., by obtaining building permission on 02.02.2017. According to petitioner, there is a government land adjacent to the land in which construction activities are taken up by the 5th respondent to an extent of 66 sq. meters and the 5th respondent encroached into the government land while undertaking the construction.

3. Great emphasis is made on the endorsement given by the Collector, Hyderabad District, on 08.11.2004 to justify his contention that there exists government land to an extent of 66. sq. meters and therefore, building permission could not have been granted to the 5th respondent. It is further contented that the road width is less than 30 feet and no construction of such huge extent of property can be made on such an extent of land.

4. Copy of the endorsement of the Collector is filed as Ex.P-3. A reading of this endorsement would show that in response to application made to grant No Objection Certificate, applicant therein was informed that 66. sq. meters of land is classified as Gap Area

(Government Land) in TS No.13/1, Block B, Ward No.66 of Bakaram Village and construction can be made excluding that extent of land and NOC is considered only to an extent of 5606.30 sq. mts., in respect of Patta Land in T.S. No.3/2 & 13/2. The building permission, even according to the petitioner, is granted on land covering an area of 5606 sq. mts. It is not explained in the affidavit as to how the 5th respondent encroached into the government land. Petitioner has not stated as to how the road width is not observed. The record does not disclose that the petitioner has made a complaint to the Revenue Authorities bring to their notice of alleged encroachment by the 5th respondent. Further, the building permission was granted on 02.02.2017. Further it appears that no complaint was filed with Greater Hyderabad Municipal Corporation pointing out about the violation of road width norms.

5. The petitioner claims to be living in walkable distance of the said property. Even according to the averments of the petitioner, occupancy certificate was also granted to extent of construction already made. He has allowed the construction activity to go on and filed this writ petition after more than 30 months from the date of building permission. I do not see bonafidies in prosecuting the issue before this Court straightaway without pointing about alleged illegalities committed by 5th respondent. The road width; occupation of the government land are all questions of fact, require verification of record and physical inspection to make an assessment.

6. Therefore, the writ petition is dismissed. However, this order does not come in the way of the revenue authorities taking steps to protect the government land in T.S. No.13/1, Block B, Ward No.66 of Bakaram Village and the Municipal Corporation in ascertaining the facts about the nature of construction made, deviations if any made from the building permission granted and any false declaration made while obtaining permission by the 5th respondent. No order as to costs.

Miscellaneous Petitions, if any pending, shall stand dismissed.

P. NAVEEN RAO, J

August 08, 2019

KTL

