

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.19357 OF 2019

ORDER

Aggrieved by the notices dated 13.06.2019 and 13.06.2019 issued by the 3rd respondent – Gram Panchayat, represented by its Panchayat Secretary, in requiring the petitioner not to proceed with the construction in the subject land, and in subsequent rejection of the building permission application of the petitioner vide Lr.No.GPYCM/250/2019 dated 08.09.2019, the present writ petition is filed.

Learned counsel for the petitioner, based on the averments made in the affidavit filed in support of the writ petition, submits that petitioner purchased the subject land under registered sale deed, and he made online application on 27.08.2019 to the Gram Panchayat for building permission. As per second proviso to sub-Section 3 of Section 114 of the Telangana Panchayat Raj Act, 2018 (for short 'the Act'), if the building permission is not accompanied by all requires documents, such application shall be returned with reasons in writing to the applicant within seven days, and under third proviso of the said provision, if the Gram Panchayat does not take a decision on the application within fifteen days, the approval will be deemed to have been given. Therefore, the learned counsel submits that as the application has not been returned within seven days from the date of his submission, and the Gram Panchayat has also not taken any decision on his application within fifteen days, as per third proviso to sub-section 3 of Section 114, there is deemed approval, and hence the impugned rejection after deemed approval, cannot be sustained and the same is liable to be set aside and consequently, the construction undertaken by the petitioner cannot be interfered with by the respondents, as it is deemed to have been approved.

The Panchayat Secretary of the 3rd respondent – Gram Panchayat, filed counter affidavit. Sri G.Narender Reddy, learned Standing Counsel for 3rd respondent, based on the averments made in the counter affidavit, submitted that

as the petitioner was proceeding with the construction without any building permission, he was issued with notices on 13.06.2019 and 13.08.2019, and as the application filed by him through online was not in the prescribed format and without any necessary documents viz., conversion certificate and approved layout, it was rejected vide the impugned proceedings dated 08.09.2019. He submits that the concept of deeming provision under third proviso to sub section 3 of Section 114, would apply, only when all the valid documents are submitted, but in the present case, as stated above, valid documents have not been submitted, and hence the petitioner cannot seek the benefit of deeming provision. He submits that against the impugned order, petitioner has alternative remedy of appeal under Section 121 of the Act, and hence the writ petition may not be entertained.

Section 121 of the Act provides for appeal against the order passed by the Gram Panchayat. In view of the same, this court is not inclined to entertain the writ petition and the same is disposed of granting liberty to the petitioner to avail alternative remedy of appeal raising all the ground, which would be considered and disposed of by the appellate authority in accordance with law.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY,J

DATE:21—10—2019

Note:

C.C. in one week.

B/O
(AVS)