

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 19990 of 2019

ORDER:

In this Writ Petition, petitioner's grievance is non-consideration of her application for renewal of construction permission.

There is no dispute that initially, the petitioner was granted building permission on 12.02.2014 and in terms of condition No.17, she was required to complete the construction in 36 months. Condition No.17 itself mandates that in case the construction is not completed, permission is required to be revalidated. However, she approached the third respondent – Municipal Commissioner, Mahabubabad Municipality, Mahabubabad, for renewal of construction permission and when the same is not considered, she filed Writ Petition No.37324 of 2017 and this Court vide order dated 15.11.2017 disposed of the same with the direction to the second respondent therein to pass orders on her renewal application within a period of three (3) weeks from the date of receipt of a copy of that order and till such time, status quo was directed to be maintained. Pursuant to the said order, the third respondent vide letter dated 02.11.2018, intimated the petitioner that her case would be considered after

disposal of the suit pending in the Court of Principal Junior Civil Judge, Mahabubabad.

Learned counsel for the petitioner would submit that O.S.No.92 of 2008 was filed against the then Gram Panchayat and the same came to be decreed on 25.07.2013 and that the other suit pending is between the petitioner and a private party and the same has nothing to do with the municipal authorities. He would also submit that the municipal authorities cannot say that they are unable to decide whether the subject plot forms part of the road or not.

Learned Standing Counsel for Mahabubabad Municipality appearing for respondent Nos.2 and 3 reiterates the same by stating that the plot, over which the petitioner is claiming right, is in an unapproved layout and thereby, it is not discernable whether there exists a road or not.

It is to be noted that even assuming that the plot of the petitioner is in an unapproved layout, in the absence of demarcation of public road by the municipal authorities, the petitioner's request for renewal of construction permission cannot be rejected. Further, even assuming that the construction of the petitioner would affect the rights of the third parties, it is for the

aggrieved party to approach the civil Court and seek appropriate reliefs, as, essentially, their easementary rights are in peril. In view of the same, non-consideration of the application of the petitioner for renewal of construction permission on the ground that the third parties are objecting to the same cannot be countenanced.

In those circumstances, the third respondent shall consider the petitioner's application for renewal of construction permission and pass appropriate orders after taking into consideration the objections, if any available on record, of the third parties as well, in accordance with law, within a period of four (4) weeks, and communicate the same to her.

Subject to the above, this Writ Petition is disposed of.

Miscellaneous Petitions, if any pending, shall stand closed.

There shall be no order as to costs.

CHALLA KODANDA RAM, J

25th SEPTEMBER, 2019.

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