

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.22139 of 2019

ORDER:

This writ petition is filed seeking the following relief:

“... to issue a Writ order or order more in the nature of Mandamus declaring the action of the respondents herein in demolishing the structure made in Sy.No.566 and 568 part admeasuring an extent of 325 sq. yrds. situated in Sadasivpet, Sangareddy District, by interfering the construction activities of the petitioner, without following the procedure contemplated under law is illegal, arbitrary, unreasonable and opposed to the principles of natural justice and violation of Articles 14 and 21 of the Constitution of India and contrary to the provisions contemplated under the Muncipalitites Act and rule made there under and consequently direct the respondents to convert the deemed to have been sanctioned as a regular sanction and permit the petitioner to complete the construction of the Shops in Sy.No.566 and 568 part, Sadasivpet, which is survival for his family and pass ...”

Heard learned counsel for the petitioner, and the learned Government Pleader for Municipal Administration and Urban Development, and Sri N. Praveen Kumar, Standing Counsel for the Municipality.

It is the case of the petitioner that he has applied for building permission on 28.06.2019, and after waiting for mandatory period as mandated under Section 214 of the Municipalities Act, and as there is no rejection received by him, he proceeded with the construction. The respondent authorities, without issuing notice and without following due procedure prescribed under law, are threatening to demolish the construction being made by the petitioner, and further the petitioner is not being permitted to make any further construction.

Sri N. Praveen Kumar, learned Standing Counsel placed on record the Notice dated 25.07.2019 whereunder the application of the petitioner came to be rejected, and the said communication was in fact issued to the petitioner and the same received by the petitioner.

A close reading of the communication discloses that one Noor Ali has made a claim with respect to the land in Survey Nos.561 and 562 and there is a dispute pending in the High Court, and in view of there being a dispute the building permission application of the petitioner came to be rejected.

Having regard to the respective submissions, the fact of the matter is that while the petitioner had made an application through Online on 28.06.2019, there was no intimation to the petitioner at any point of time. Even the alleged Notice dated 25.07.2019, was served to the petitioner only in the Court at the time of hearing this writ petition. While the petitioner has signed the affidavit in Urdu, the alleged signature of the receipt of notice is in English which falsifies the contention of the respondent authorities that the Notice dated 25.07.2019 came to be served on the petitioner. Further the procedure which is being followed across the State is that the rejection is being communicated through Online mode.

It may be noted that the official instructions issued to the learned Standing Counsel was that the Shortfall intimated as site position and boundary dispute, whereas in the Notice dated 25.07.2019, the claim of one Noor Ali with respect to Survey Nos.561 and 562 was shown.

It may also be noted that the property, as per the encumbrance mentioned in the Sale Deed, is situated in Survey Nos.566 and 568 Part. Even viewed from that angle, the Notice dated 25.07.2019 appears to be invented only for the purpose of rejection of building permission application of the petitioner, without valid reasons.

In those circumstances, the 2nd respondent shall take into consideration of the application of the petitioner, and process the same and grant the construction permission within two weeks from today. The learned Standing Counsel Sri Praveen Kumar shall intimate the 2nd respondent about the orders passed by this Court in this writ petition today.

If the 2nd respondent does not pass orders of granting permission within two weeks from today, the petitioner shall be entitled to proceed with the construction, however, strictly in conformity with the building plan submitted to the Municipal authorities. In the event of there being any deviation in construction, the respondent authorities shall be entitled to take necessary action in accordance with law.

The writ petition is disposed of accordingly. No costs. Miscellaneous petitions, if any pending, shall stand closed.

01st October, 2019

KSM

CHALLA KODANDA RAM, J



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KSM