

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.24797 OF 2019

ORDER :

This Writ Petition is filed by the petitioner seeking a writ of *mandamus* directing the 2nd respondent to cancel the draft layout Application No.02350/ZOC/LOC/U6/HMDA/09052019 dated 28.08.2019 as illegal, irrational and unconstitutional.

2. The case of the petitioner is that he is owner of the land admeasuring Ac.0-10 guntas in Survey No.352 of Gowdavally Villge, Medchal Mandal, Medchal Malkajgiri District, having purchased the same from respondent No.3, out of 44 guntas of the land, under registered sale deed bearing document No.1042 of 2010 dated 07.04.2010 and is in peaceful possession of the same. Thus, respondent No.3 is absolute owner of the land admeasuring Ac.0-34 guntas alone. However, respondent No.3 had obtained permission for development of total 44 guntas of the land by including Ac.0-10 guntas of the land belonging to the petitioner as well without any right over the said land and by misrepresentation and suppression of material facts vide draft layout bearing No.000264/LO/Plg/HMDA /2019 dated 28.08.2019 issued by the 2nd respondent.

3. Heard Sri N. Harinath, learned counsel or the petitioner, Sri V. Narasimha Goud, learned Government Pleader for Municipal Administration, Sri Y. Rama Rao, learned Standing Counsel for

Hyderabad Metropolitan Development Authority, and perused the material on record.

4. Learned counsel for the petitioner submits that despite petitioner submitting the representation dated 25.10.2019 to the 2nd respondent authority in respect of the illegal permission being obtained by the 3rd respondent, no action whatsoever has been taken by the 2nd respondent so far. Learned counsel brings to the notice of this Court that Section 22 of the Hyderabad Metropolitan Development Authority Act, 2008 (for short 'HMDA Act') deals with cancellation of development permissions which are obtained by suppression or misrepresentation of any material fact or by false statement.

5. Section 22 of the HMDA Act reads as under:

“Revoking of Permission: The Metropolitan Development Authority or the Government, as the case may be, may revoke any Development Permission issued under this Act whenever it is found that it was obtained by making any false statement or misrepresentation or suppression of any material fact or rule, by following such procedure as may be prescribed.”

This provision clearly indicates that development permissions obtained under the HMDA Act by suppression or misrepresentation of any material fact or by false statement can be revoked following the prescribed procedure.

6. In view of the above, having regard to the nature of relief sought by the petitioner and as there is pending representation dated 25.10.2019 of the petitioner with the 2nd respondent authority, it is the primary duty of the 2nd respondent officials to consider the issue and take necessary action in accordance with law.

7. Therefore, the 2nd respondent authority is directed to consider the aforestated representation of the petitioner and pass appropriate orders thereon by issuing notice to both parties following the due process of law. Since no adverse order is being passed in the present writ petition against the 3rd respondent, there is no requirement of issuing notice to him.

8. With the above directions, the writ petition is disposed of. No order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition stand closed.

CHALLA KODANDA RAM, J

November 12, 2019.

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