

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

W.P.No.28073 of 2019

ORDER:

The writ petition is filed under Article 226 of the Constitution of India with the following prayer:

“To issue an appropriate writ or direction or order more particularly one in the nature of writ of MANDAMUS declaring the order dated 2.11.2019 issued under Sections 217(3)/229(3) and Section 360 of Telangana Municipalities Act, 1965 confirming the provisional order dated 28.10.2019 issued under sections 217(1)/228(1) of Telangana Municipalities Act and also the provisional order dated 28.10.2019 issued by the respondent No 2 as illegal arbitrary unjust and violative of Article 14 and 21 of the Constitution of India and the provisions of the Telangana Municipalities Act 1965 and consequently set aside the order dated 2.11.2019 confirming the provisional order dated 28.10.2019 and also the provisional order dated 28.10.2019 issued by the respondent No 2 as illegal”.

2. Heard learned counsel for petitioner, learned Government Pleader for Municipal Administration and Urban Development for Respondent No.1 and Sri N.Praveen Kumar, learned Standing Counsel for Respondent No.2.

3. According to the petitioner, he purchased Plot Nos.16 and 17 admeasuring 347.79 sq.yards in the approved layout in Sy.No.1/2/A of Amistanpur Gram Panchayat, Bhoothpur mandal, Mahabubnagar district under registered sale deed dated 16.10.2006 bearing doc.No.6617 of 2006 and thereafter obtaining building permission on 10.9.2009 petitioner made construction strictly in accordance with the approved plan and he has been living in the said house.

4. Learned counsel for petitioner contends that the 2nd respondent issued provisional notice dated 28.10.2019 under Sections 217(1)/228(1) of Telangana Municipalities Act, 1965 directing the petitioner to remove the illegal construction. Though the petitioner explained that the construction was made in conformity with the building permission granted by the Gram Panchayat, the 2nd respondent issued impugned proceedings dated 2.11.2019 directing to remove the illegal constructions within 3 days. Hence this writ petition.

5. A perusal of the impugned order dated 2.11.2019 confirming the provisional order dated 28.10.2019 shows that the same are cyclostyled orders, which are ex-facie illegal and issued without application of mind and also contrary to the principles of natural justice. There is no reference to any of alleged breaches or violation of approved plan or building regulations. The petitioner was not afforded any opportunity to put-forth his case. Therefore, the impugned orders issued by the 2nd respondent are liable to be set aside.

6. Accordingly, the Writ Petition is allowed, setting aside the order dated 2.11.2019 confirming the provisional order dated 28.10.2019 issued by the 2nd respondent. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

T. AMARNATH GOUD, J

Date: 18.12.2019
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18.12.2019

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