

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

I.A.No.1 of 2019
in
I.A.No.1 of 2018
in/and
W.P.No.26401 of 2018

COMMON ORDER:

1. Parties hereafter will be referred to as per their array in the Writ Petition.
2. Petitioner had filed this Writ Petition alleging that he is the owner of Ac.0.21 guntas of land in Survey No.599 of Garshakurty Village, Gangadhara Mandal, Karimnagar District, which he had purchased under a registered sale deed document No.1463 of 1983. He alleged that the 4th respondent and others illegally occupied the land and were constructing a marriage-hall in the said land without obtaining permission from 3rd respondent.
3. Petitioner contended that in spite of complaint being made by the son of the petitioner against the construction of the said marriage-hall by the 4th respondent, 3rd respondent did not take any action. He also contended that a representation was made to the 3rd respondent complaining about the illegal construction and to stop it and the same was received by the 3rd respondent, but he did not take any action.
4. On 01.08.2018 this Court issued 'Notice before admission' and noted that Sri G.Narendar Reddy, Standing Counsel took notice for 3rd respondent and permitted issuance of notice to 4th respondent. It then granted an interim order directing the

respondents 1 to 3 to prevent the 4th respondent from carrying out construction activity in an extent of Ac.0.21 guntas of land situated in survey No.599 of Garshakurty Village, Gangadhara Mandal, Karimnagar District, pending disposal of the writ petition, having taken note of the fact that the 3rd respondent had stated that no permission had been granted to the 4th respondent to make construction in the subject land and that it had issued two notices on 28.06.2018 and 03.07.2018 to the 4th respondent not to make any construction.

5. I.A.No.1 of 2019 is filed by the 4th respondent to vacate the said order dt.01.08.2018 in IA.No.1 of 2018 in Writ Petition No.26401 of 2018.

6. In I.A.No.1 of 2019 it is the contention of the 4th respondent that there is a gift of the land by the petitioner to a trust called Shivabhakta Markandaya Devasthanam Trust run by the local Padmashali Seva Sangam under an unregistered gift deed. It is alleged that the 4th respondent is the President of the said Padmashali Seva Sangam and they approached the MLA of Choppadandi Constituency and obtained funds for construction of a community hall in the subject land on 27.07.2017. It is stated that construction of the community hall in the subject land was commenced with the said financial aid, and also some donations given by the villagers, and while the construction was being carried out, 3rd respondent issued notice under Section 121 of the A.P. Panchayat Raj Act, 1994 on 28.06.2018 instructing

him not to make construction and thereafter they stopped the construction work. He stated that by the time the said notice dt.28.06.2018 was received from the 3rd respondent, 4th respondent had erected tin shed and also raised walls on two sides to a height of 4 feet. Thereafter, on 18.08.2018 he made an application to 3rd respondent seeking permission for construction of the community hall enclosing copy of the unregistered gift deed dt.06.11.2000. He also alleged that the petitioner had filed OS.No.20 of 2019 for recovery of possession of the subject land impleading the 4th respondent and others, and that he had stated in the plaint filed in the said suit that on 12.06.2018, 4th respondent and others had illegally occupied the said land and erected a tin shed therein.

7. From the above contentions it is clear that no building permission was ever granted to the 4th respondent to make construction in the subject land and after erecting the community hall/tin shed to some extent, as admitted in the counter affidavit of the 4th respondent, the 4th respondent had applied for permission for making construction on 18.08.2018.

8. Section 114 of the Telangana Panchayat Raj Act, 2018 states that no piece of land shall be used as a site for construction of a building and no building shall be constructed without approval of the Grampanchayat in accordance with the provisions of the said Act and the Rules and bye-laws made there under.

9. Under Rule 33 of the Telangana Grampanchayat Land Development (Lay out and Building) Rules, 2002 issued in G.O.Ms.No.67 dt.26.02.2002, if there is any violation of the provisions of the Act or Rules, it is the duty of the District Panchayat Officer to take suitable action including demolition of the unauthorized works by giving suitable direction to the Executive Authority or any other authorized person for taking action against unauthorized construction/lay out, in view of sub-Section(8) of Section 114, which states that, Grampanchayat shall be liable for dissolution under Section 268, if unauthorized constructions come up in Grampanchayat area or if any deviation is found in the permitted building plan or if any permission is granted contrary to any rules made in this behalf.

10. Thus, it is clear that the intention of the legislature while drafting the Statute is to ensure that no illegal constructions are made and even the Grampanchayat would face the threat of dissolution, if it permitted unauthorized structures to come up.

11. But strangely in the instant case, though the 3rd respondent is aware that the structure erected by the 4th respondent is totally illegal, he merely issued two notices on 28.06.2018 and 03.07.2018 and thereafter took no action under Rule 33 of the Rules mentioned above. No valid explanation is offered in the counter affidavit for the inaction of the 3rd respondent.

12. It is also not the case of the 3rd respondent that he had informed the 2nd respondent-District Panchayat Officer about the illegal construction being made by the 4th respondent in order that suitable instructions be issued by the 2nd respondent to the Executive Authority of the 3rd respondent-Grampanchayat for initiating proceedings for demolition of the unauthorized works.

13. Therefore the only inference which can be drawn from the inaction of the 3rd respondent is that he had colluded with the 4th respondent and had no intention of implementation of the provisions of the Act, even running the risk of wrath of the Government under Section 114(8) for dissolution of the Grampanchayat itself. This is indeed a sad state of affairs.

14. It is the duty of the 3rd respondent to inform the 2nd respondent about the illegal construction being carried out by the 4th respondent in the subject property and seek appropriate instructions under Rule 33(2) from the 2nd respondent.

15. In this view of the matter, the Writ Petition is allowed. The 2nd respondent is directed to take note of the illegal construction made by the 4th respondent, whether or not the 3rd respondent informs him about it, and direct the Executive Authority of the 3rd respondent of the Garshakurty Village to take immediate steps for demolition of the structures/tin shed erected by the 4th respondent in the subject land and remove the said construction forthwith. No order as to costs.

16. Consequently, I.A.No.1 of 2019 to vacate the order dt.01.08.2018 in IA.No.1 of 2018 in WP.No.26401 of 2018 is dismissed.

17. Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

22nd November, 2019.

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