

THE HONOURABLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.3499 of 2020

ORDER:

Heard learned counsel for the petitioner as well as learned Standing Counsel appearing for respondent No.1-Corporation.

2. The prayer sought in the writ petition is as under:

“...to call for records from the 1st Respondent and issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Mandamus, declaring the action of 1st respondent in granting Building Permit Order in favour of 2nd and 3rd respondents vide Permit No.3006/19220/W46/2019, dated 28-09-2018 for carrying out the construction activities of one stilt + 4 upper floor building in Survey Nos.24 and 25, admeasuring 968 square yards, situated at Gopalpur village, Hanamkonda, Warangal District despite pendency of O.S.No.541 of 2011 on the file of the Principal Senior Civil Judge, Warangal as illegal, unjust, contrary to law, perverse and violative of principles of natural justice, and consequently direct the 1st respondent to withdraw the Building Permit Order vide Permit No.3006/19220/W46/2019, dated 28-09-2018; and pass such other or further orders as this Hon’ble Court may deems fit and proper under the circumstances of the case.”

3. Learned counsel appearing for the petitioner submits that respondent No.1 Corporation granted building permission in favour of respondent Nos.2 and 3, vide permit No.3006/19220/W46/2019, dated 28.09.2019, for carrying out the construction activity of stilt + four upper floors in Survey Nos.24 and 25 admeasuring 968 sq. yards situated at Gopalpur village of Hanamkonda, Warangal District.

4. It is the specific case of the petitioner that the subject property is a joint family property, in respect of which a suit in O.S.No.541 of 2011 for partition and separate possession is pending consideration on the file of the Court of Principal Senior Civil Judge, Warangal.

5. Learned counsel for the petitioner submits that the petitioner has given representations, dated 11.11.2016, 27.03.2017 and

01.07.2019, to respondent No.1 Corporation not to give permission for construction of building in favour of respondent Nos.2 and 3. However, without considering the said representations, respondent No.1 Corporation granted permission to respondent Nos.2 and 3 for construction of stilt + four upper floors.

6. Learned Standing Counsel appearing for respondent No.1 Corporation, on instructions, submits that on examination of *prima facie* title and basing on the documents submitted by respondent Nos.2 and 3, respondent No.1 Corporation has granted permission in favour of respondent Nos.2 and 3.

7. Having heard both the counsel and also from the perusal of the averments made in the affidavit filed in support of the writ petition, admittedly a suit in O.S.No.541 of 2011 is pending consideration. In these circumstances, this Court is of the opinion that even without partitioning the properties among the petitioner and respondent Nos.2 and 3, respondent Nos.2 and 3 cannot file an application for permission to construct the building and cannot proceed with the construction in the subject site. Since, the petitioner has already submitted three representations, a direction to respondent No.1 Corporation to consider the said representations of the petitioner, would meet the ends of justice.

8. Accordingly, the writ petition is disposed of directing respondent No.1 Corporation to consider the representations, dated 11.11.2016, 27.03.2017 and 01.07.2019, submitted by the petitioner and pass appropriate orders, after giving notice to respondent Nos.2

and 3, as per law, within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

P. KESHAVA RAO, J

19th February 2020

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