

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.33064 of 2021

ORDER:

This writ petition is being disposed of at the admission stage with the consent of both parties.

2. This writ petition is filed seeking the following relief:

“..to issue a Writ, Order or Direction in the nature of Mandamus or otherwise declaring the unauthorized and illegal interference by the official respondents in the construction of the Petitioner at H.No.34-4/20/1, Plot No 15-Part, Sy.No.213/3-1, Raghavendra Nagar, Malkajgiri, Medchal Malkajgiri District, as illegal, arbitrary and violative of Article 14 and 300 A of the Constitution of India and consequently direct the respondents to act in accordance with law and pass such other order or orders as this Honourable Court deems fit and proper in the circumstances of the case.”

3. Heard learned counsel for the parties.

4. It has been contended by the petitioner that he owns a residential house bearing No.34-4/20/1 admeasuring 130 sq. yards in Plot No.15 Part in Sy.No.213/3-1 situated at Raghavendra Nagar, GHMC limits, Malkajgiri Circle, Malkajgiri Mandal, Medchal-Malkajgiri District.

5. Counsel for the petitioner contended that the municipal authorities have assigned Door No.34-4/20/1 to the petitioner's premises and the petitioner had obtained valid building permission from the Greater Hyderabad Municipal Corporation *vide* proceedings dated 17.03.2021 and that the Greater Hyderabad Municipal Corporation has also permitted the petitioner to proceed with the

construction *vide* letter dated 04.05.2021. Counsel further contended that when the petitioner was undertaking the construction activity, the 4th respondent has issued notice under Section 7 of the Land Encroachment Act (for short, 'the Act') on 20.10.2021 and thereupon, the petitioner submitted relevant documents to the 4th respondent, but the 4th respondent, without passing any final orders in pursuance of the show cause notice dated 20.10.2021, is interfering with the construction activity of the petitioner.

6. Counsel for the petitioner further contended that the petitioner could demonstrate before the 4th respondent that the subject property is not the encroached property and the petitioner has submitted all the relevant documents, but the 4th respondent, without passing final orders under Section 6 of the Act, is trying to interfere with the peaceful possession of the petitioner and also the construction activity of the petitioner. Therefore, counsel contended that appropriate orders be passed in this writ petition directing the 4th respondent not to interfere with the construction activity of the petitioner.

7. Government Pleader appearing for the respondents had contended that the 4th respondent has issued notice under Section 7 of the Act on 20.10.2021 and let the petitioner submit explanation to the said notice, then the 4th respondent would consider the same and pass final orders in accordance with law.

8. This Court, having considered the rival submissions made by learned counsel for respective parties, is of the considered view that

since the 4th respondent has issued show cause notice under Section 7 of the Act, the petitioner is given liberty to submit his explanation in pursuance of the said show cause notice, within a period of two weeks from the date of receipt of a copy of this order. Upon such explanation being received by the petitioner, the 4th respondent shall consider the case of the petitioner and pass final orders in accordance with law. Till such time, the 4th respondent shall not interfere with the peaceful possession and the construction activity of the petitioner and, if the petitioner proceeds with the construction activity, he shall not claim equities in future.

9. Accordingly, this writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

09-12-2021

v v