

HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.2528 OF 2003

ORAL ORDER:

As per the information furnished by the Registry, this writ petition is pending, but, however, bundle is not available. Therefore, permission is accorded to reconstruct the bundle. Accordingly, Mr. K. R. Koteswara Rao, learned counsel for respondent has furnished papers vide U.S.R. No.76442 of 2022, dated 29.08.2022. Despite listing the matter under the caption 'for orders', even today there is no representation on behalf of the petitioners.

2. Heard Mr. K.R. Koteswara Rao, learned counsel for the respondent and perused the record.

3. Perusal of the record would reveal that petitioner No.1 herein had submitted a representation dated 23.01.2003 with the respondents to regularize / compound the unauthorized structures erected in Bungalow No.207, Sikh Road, Secunderabad Cantonment Area, Secunderabad. Vide order dated 05.02.2003, the respondents have rejected the said application on the following grounds:

- i. Subject land is classified as 'B-3' Land (Old Grants) under the management of Defence Estate Officer, A.P. Circle, Secunderabad

and the ownership rights are vested with the Central Government.

Therefore, the constructions were made on the Central Government land without prior permission;

- ii. Constructions made on the subject premises are very close to the Begumpet Airport, Hyderabad, and is in the path of Landing and Taking of Aero-planes, and the same is in violation of height restrictions imposed by the Competent Authority i.e., Civil Aviation Department;
- iii. The statutory notices under Section 185 (i) and 256 of the Cantonments Act issued by the respondents and the petitioners herein had challenged the said notices by way of filing a civil suit vide O.S. No.676 of 1998. The said suit was dismissed and feeling aggrieved by the same, the petitioners herein had filed an appeal vide A.S. No.59 of 2001 and the same was also dismissed. Therefore, the petitioners herein had filed second appeal vide S.A. No.881 of 2002, and this Court vide judgment dated 22.01.2003 dismissed the said second appeal. In the said order, there is a finding that both the Courts below have held that the petitioners herein put up new constructions in the suit premises without obtaining permission from the respondent - defendant. Whether

the petitioners put up new constructions or effected repairs to the existing structures is purely a question of fact. Both the Courts below on thorough consideration of the evidence brought on record held that the petitioners put up new constructions in the suit premises. Therefore, both the Courts below have rightly dismissed the suit and appeal.

- iv) The petitioners herein had submitted the application at belated stage and the same was rejected.

4. The aforesaid facts would reveal that the respondents had rejected the representation submitted by the petitioners dated 23.01.2003 vide proceedings dated 05.02.2003 on the aforesaid grounds. Therefore, there is no error in it.

5. In view of the aforesaid discussion, the petitioners herein failed to make out any case to interfere with the said proceedings passed by the respondent. Thus, the writ petition is devoid of merits and the same is liable to be dismissed.

6. The present Writ Petition is accordingly dismissed. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, pending in the
Writ Petition shall stand closed.

5th September, 2022
Mgr

K. LAKSHMAN, J