

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

W.P.Nos.25411 of 2021 and 13861 of 2022

COMMON ORDER:

Since both these writ petitions arise out of the common issue and the parties are also similar, they are being disposed of by this common order.

2. Both these writ petitions are filed questioning the action of respondents No.1 and 2 in granting construction permission to respondent No.3 in violation of Municipal Laws when the matter is *sub-judice*, as illegal and arbitrary.

3. Learned counsel for petitioner Mr.C.M.R.Velu submits that the petitioner has made representations dated 15.02.2021 and 29.09.2021 to the official respondents No.1 and 2 stating that a suit in O.S.No.63 of 2021 on the file of VI Additional Junior Civil Judge, Warangal, is pending between the petitioner and unofficial respondent No.3 and respondents No.1 and 2 have granted construction permission to respondent No.3 vide Permit No.3006/26189/W32/2020 dated 05.10.2021 without considering the petitioner's representations and respondent No.3 is going

ahead with the construction. He submits that the petitioner has earlier filed W.P.No.25411 of 2021 questioning the action of the respondents No.1 and 2 in granting construction permission to respondent No.3 in violation of the municipal laws when the matter is *sub-judice* and no interim orders were passed in the said writ petition, but respondents No.1 and 2 were directed to consider the petitioner's representation dated 15.02.2021 and in spite of the same, his representation was not considered and respondent No.3 is going ahead with the construction. Learned counsel for the petitioner further submits that as per Section 178(6) of the Telangana Municipalities Act, 2019 (in brief 'the Act'), whenever a representation is made to the authorities, they are duty bound to consider the same within one week from the date of such representation. So far, they failed to consider the representations of the petitioner, which is a clear violation of Section 178(6) of the Act. He has relied upon two decisions of Andhra Pradesh High Court in ***T.Rameshwar vs. Commissioner, Municipal Corporation of Hyderabad and others in W.P.Nos.14025 and 23731 of 2005 dated 18.03.2006*** and in ***V.Jaya Prakash vs. Commissioner of Municipality, Kapra Municipality, Kapra, Ranga Reddy District and another***

in W.P.No.3979 of 2003 dated 24.11.2003. Learned counsel seeks a direction to the respondents to consider the representations of petitioner and to see that unofficial respondent No.3 did not proceed with the construction till his representations are disposed of.

4. Ms.P.Lakshmi, learned Standing Counsel for the official respondents No.1 and 2, submits that when there is a dispute with regard to the property, the Municipal Commissioner is not competent to decide the same. She further submits that the petitioner should have made respondents No.1 and 2 as parties to the suit and sought the relief which he is asking before this Court from the competent Court, but without choosing the same, he has approached this Court. However, she does not dispute the fact that the representations of the petitioner are pending for consideration before respondent-Corporation.

5. Learned counsel appearing for respondent No.3 Mr.P.Ramachander Rao submits that respondent No.3 has purchased the subject property in the year, 1988 and ever since she is in possession and enjoyment of the same, whereas the petitioner has purchased the property in the year, 2019. He

submits that the petitioner is claiming the property in Sy.No.570/A, whereas respondent No.3 is claiming property in Sy.No.558/A and B of Shyampet Jagir Village, as such the Survey Numbers are different and there is also a dispute with regard to the boundaries of the subject property. He further submits that the Municipal Commissioner has no jurisdiction to decide the said issue and the writ petitions filed by petitioner are not maintainable and further, the petitioner has already availed alternative remedy available to him.

6. Taking into consideration the circumstances, as rightly pointed out by the learned Standing Counsel for respondents No.1 and 2 as well as the learned counsel for the unofficial respondent No.3 that the petitioner has filed a suit before the Court in respect of the subject properties. Admittedly, when there is a dispute with regard to the boundaries of the property and particularly, when the unofficial respondent No.3 has purchased the property in the year, 1988, the petitioner ought to have made respondent No.2-Municipality as a party to the said suit as defendant and whatever relief he wants to claim, he can claim before the competent Civil Court. Further, the decisions relied on by the learned counsel for petitioner are not applicable to the

facts of the present case, particularly, the fact that when a suit is pending between parties.

7. The only legal ground that is raised by petitioner is that in view of Section 178(6) of the Act, the respondents are duty bound to consider his representations and pass orders within seven days. Hence, respondents No.1 and 2 shall consider the representations of petitioners dated 15.02.2021 and 29.09.2021 after giving notice to the unofficial respondent No.3 and pass appropriate orders within 15 days from the date of receipt of copy of this order.

8. With the aforesaid direction, both the Writ Petitions are disposed of. No order as to costs.

9. Miscellaneous petitions, if any pending in these writ petitions, shall stand closed.

LALITHA KANNEGANTI, J

21st March, 2022.

svl/pld