

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No. 26749 of 2021

ORDER:

This Writ Petition is filed questioning the proceedings dated 26.08.2021 issued by the 2nd respondent, whereby the building permission of the petitioner was rejected on three grounds:

- 1) Rejected as recommended by the TPO/TPS
- 2) The petitioner has filed Writ Petition being W.P.No. 3011 of 2020 and the Hon'ble High Court passed interim order dated 26.05.2021 directing the official respondents to consider the application, dated 30.03.2021 duly putting the respondent NO.3 on notice and if any objections are filed, the same shall be considered in accordance with law. Accordingly, notice issued to the 3rd respondent Mr. Jagan Mohan Reddy to file any objections are there for according building permission and in response to the said notice Mr. Jagan Mohan Reddy has submitted reply stating that civil suit is pending regarding the said land in I.A.No. 146 of 2016 and further stated that the applicant has shown the land of Mr. Jagan Mohan Reddy as parking place of proposed function hall. The applicant has earlier filed W.P.No. 3659 and 5185 of 2019 are still pending adjudication and final orders are not passed. Hence, the application cannot be considered and suggested for rejection.
- 3) The proposed site might fall in the buffer zone. Therefore, Irrigation and District Collector NOC is required. The proposed sit I falling in the public and semi-public use as per Jangaon Master Plan. Therefore, the change of land use is required. The fire NOC has to be submitted.

2. Sri R.A. Chary, learned counsel for the petitioner submits that as far as ground No.2 is concerned, the respondents have referred to a civil suit and nothing has been stated how that civil suit is concerned with the present permission. He submits that as the civil suit and other Writ Petitions are pending, the respondent authorities have rejected

the Application. It is stated that as far as ground No.3 is concerned, the proposed site might fall in the buffer zone, therefore, Irrigation District Collector's NOC is required. Learned counsel submits that in earlier round of litigation, a report was submitted before the Court in Writ Petitions No. 3659 and 5185 of 2019 wherein it is categorically mentioned that the site is situated within the FTL limits of Bathukamma Kunta which was fixed by the Irrigation Authority and in view of the said fact, the respondents have shown this as shortfall. He submits that as the petitioner filed Writ Petition No. 3659 of 2019 where there is an interim order dated 21.02.2019 and also Writ Petition No. 5185 of 2019, when these two matters have come up before this Court on 19.06.2019, the respondents were directed not to take any coercive steps against the petitioner, however, the respondents have seized the function hall on 11.12.2020 giving go-by to all the orders passed by this Court. He submits that the official respondents have willfully violated the orders of this Court and at the behest of the unofficial respondents, they are acting in a manner unknown to law.

3. Learned Standing Counsel for the respondent Municipality Sri N. Praveen Kumar submits that this Court in the order dated 19.06.2019 has directed the petitioner not to utilize the premises for running a function hall and not to make

any further construction. In spite of the orders of this Court, the petitioner continued to use the premises as function hall, as such invoking Section 181 of the Telangana Municipalities Act, 2019, the respondents have seized the premises. He submits that with regard to the impugned order and grounds 2 and 3 stated therein, he does not dispute the fact that already a report was filed before this Court stating that the land is not in the FTL limits. Further, on a query from this Court with regard to the pending suit and what is the relevancy of the same for rejecting the permission, learned Standing Counsel could not submit any reason.

4. Learned counsel for the unofficial respondents submits that the petitioner without obtaining permission and without getting conversion of the premises into non-agricultural purpose, has been continuing the illegal activities in the premises and basing on the complaint filed by the unofficial respondents, the impugned order came to be passed. He submits that the order does not require any interference from this Court. He further submits that in spite of the interim order passed by this Court, the petitioner continued to run a function hall in the premises and violated the orders of this Court.

5. A perusal of the impugned order shows that the Application of the petitioner was rejected on three grounds. As

far as the reasons given by the respondents on getting a 'No Objection Certificate' and that premises might fall in buffer zone, already, the District Collector has filed a report before this Court that it is not within the FTL. As far as rejecting the petitioner's case on the ground of pending civil litigation and Writ Petition does not appear to be a plausible reason as the respondents failed to consider or give reasons for such rejection.

6. Hence, in the facts and circumstances of the case, the Writ Petition is allowed and the order dated 26.08.2021 is set aside. It is left open to the 2nd respondent to issue notice to the petitioner as well as the unofficial respondents, who are impleaded today, and on receipt of such notice, they shall submit their explanation. After considering the explanation, the respondent Municipality shall pass appropriate orders in accordance with law. The whole exercise shall be completed within three weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

7. The miscellaneous Applications, if any shall stand closed.

LALITHA KANNEGANTI, J

07th April 2022

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