

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No.31220 of 2021

ORDER:

This writ petition is filed questioning the impugned notice vide RoC No.TP/925/2021-TPBO 7 CIR II (E: 123542) dated 20.11.2021 issued by the respondent No.2.

2. Mr. Ramesh Chilla, learned counsel for the petitioner submits that in the year 2019, the petitioner has got building permission for construction of ground + first floor in plot No.26-A situated at Chaithanyapuri Colony, Kazipet and later, the petitioner submitted a proposal for approval of the second floor on 01.01.2020 through on-line. He submits that when construction of both ground and first floor are completed, basing on the complaint given by the neighbors to close the windows on west side and to clean the drainage, accordingly, the petitioner has closed all the windows present on the west side of the building and also moved the entire walls on the west side to 1½ feet inside and cleared the drainage and thereafter, the Town Planning Authorities visited the site and were satisfied with the corrections. He submits that when the petitioner tried to correct it with the help of scaffolding, the neighbors stopped her from working and broke the scaffolding and tore the curtains and created the problem. Further, the petitioner orally submitted to the respondent and also submitted a written request on 20.01.2020 that the petitioner is ready for correcting the

deviations whatsoever if demarcated by the Town Planning or municipal authorities and basing on the complaint given by the neighbors on 04.09.2021, the respondents highhandedly tried to interfere with the petitioner's possession.

3. Relying on Section 174 of the Telangana Municipalities Act, 2019, the learned counsel for the petitioner submits that once the petitioner has made an application for building permission, within 21 days, if the municipality failed to reject the same, it amounts to deemed permission and as per the deemed permission under the said clause, the petitioner has completed the construction. He submits that if any complaint is received and they want to take any action, after issuing notice calling for the explanation and after considering the explanation, they should pass the final order and thereon, they have to take appropriate action, but the respondents without resorting to any of the procedure known to law in a highhanded manner tried to demolish the structures.

4. Ms. Pingali Lakshmi filed counter on behalf respondent corporation. In the entire counter, nowhere it is stated about the passing of any final order before proceeding with demolition or interfering with the petitioner's construction activity or possession of the petitioner. Except stating about the earlier writ petitions and that the petitioner is making constructions

without leaving setbacks and it is stated that the petitioner has also given undertaking.

5. If the petitioner has made any construction without obtaining permission or made construction in deviation to the sanction plan, there is a procedure established under the Act, where they have to issue a notice seeking for explanation, then consider the same and pass orders.

6. In this case, the respondent municipality has not resorted to any of the said procedure. Apart from that, it is stated in the counter about the construction of the second floor which is without permission. As rightly pointed out by the learned counsel for the petitioner, when the petitioner has made an application seeking building permission, it has to be decided within 21 days or else it amounts to deemed permission and he can continue with the construction. It is not the case of the corporation that they have rejected the permission within 21 days. In view of the same, they cannot say that the construction that is made in the second floor is unauthorized construction. As far as the constructions that are made by the petitioner, i.e. ground + first floor + second floor, if the constructions that are made contrary to the sanctioned plan of ground + first floor and the submitted plan of second floor, they can issue a notice to the petitioner and take appropriate action in accordance with law. Till such time, they cannot interfere with the petitioner's possession or construction in respect of the same.

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

Miscellaneous petitions, if any pending in this writ petition shall stand closed.

26th July, 2022
gvl

LALITHA KANNEGANTI, J