

THE HON'BLE SMT. JUSTICE P.MADHAVI DEVI

W.P. Nos.30935 and 36056 of 2021

COMMON ORDER:

Both these writ petitions are filed by the same petitioner.

W.P. No.30935 of 2021 has been filed against the notice dated 20.11.2021 issued by the 2nd respondent for demolition of the illegal constructions made by the petitioner.

W.P. No.36056 of 2021 has been filed under Article 226 of the Constitution of India seeking a direction to the 3rd respondent to consider the representation of the petitioner for regularization of the unauthorized constructions made by the petitioner.

It is submitted that the petitioner had obtained permission from the 2nd respondent for construction of Ground + 1 floors on her Plot bearing No.6-4-47/1 (Part), Brahmanawada, Warangal Urban, admeasuring 90 square yards and it was duly sanctioned. Subsequently, the petitioner has made constructions of Ground + 3 floors. Noticing that the petitioner has made unauthorized constructions, the 2nd respondent has issued notice dated 29.10.2021, asking the petitioner to submit Municipal building permission proceedings, plan and registered documents along with link documents of that premises for verification, within seven days from the date of receipt of the notice and in reply thereto, the petitioner has submitted a letter dated 06.11.2021 praying for dropping of the proceedings against the petitioner. Subsequently, by notice dated 20.11.2021 the petitioner was asked to show-cause as to why the unauthorized constructions made by the petitioner should not be demolished. Against the said notice, the petitioner filed W.P. No.30935 of 2021.

The learned counsel for the petitioner submits that the petitioner is now going to file an application before the authorities seeking regularization of the upper floors, which have been constructed unauthorisedly as the petitioner is

eligible for making construction of Ground + 3 floors. He relied upon the decision of this Court made in W.P. Nos.30244 and 34379 of 2021, dated 17.12.2021, in the case of the neighbouring plot of the petitioner wherein this Court was pleased to pass the following order.

“10. In the instant case, to strike just balance between the competing interests and in the interest of justice, equity and fair play, this Court deems it appropriate to pass the following order. In the given circumstances of the case, in the interest of justice, it is not appropriate to say or record any finding with regard to the orders passed by Lokayukta.

“The respondent authorities are directed to dispose of the online application, dated 20.06.2019, as well as the representation, dated 06.12.2021, made by the petitioner, in strict accordance with law, within a period of two (2) months from the date of receipt of a copy of this order. Till then, the impugned Notice/Intimation Roc.No.UC/05/W.No.7/GWMC/TP/CIR-II/2021, dated 20.11.2021, shall remain stayed. In view of the undertaking given by the learned senior counsel appearing for the petitioner in relation to demolition of pent house constructed in the subject property, the petitioner shall demolish the pent house constructed in the subject property within a period of one week from today and report compliance of the same to this Court within a period of one week thereafter. In case of failure of demolition of pent house as agreed by the petitioner within the stipulated time, the respondent authorities shall demolish the same immediately and report compliance to this Court.”

11. With the above observations/directions, both these Writ Petitions are disposed of.”

The learned counsel for the petitioner submits that till his representation for regularization of unauthorized construction is disposed of, the respondents may be directed not to take any coercive steps for demolition of unauthorized construction.

Heard the learned counsel for the petitioner and the learned Standing Counsel, P.Lakshmi, for respondents 2 and 3.

After hearing both the parties and having consideration to the similar facts in the above referred order, wherein this Court has already directed the

respondents therein to consider and dispose of the representation of the petitioner therein, the petitioner herein is also given liberty to file an application for regularization of unauthorized construction in the required format, along with all other required documents, within a period of two weeks from today, and thereafter, the respondents 2 and 3 shall consider and dispose of the said application, within a period of four weeks thereafter, in accordance with law, and if the application of the petitioner does not fit into the scheme, the respondent authorities may proceed for demolition of the unauthorized constructions made by the petitioner, in accordance with law. Till disposal of the application to be made by the petitioner, the respondents shall not take any coercive steps for demolition.

Accordingly, these writ petitions are disposed of. No order as to costs. Miscellaneous applications, if any pending, shall stand closed.

JUSTICE P.MADHAVI DEVI

Date: 03.01.2022
LSK