

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No.40270 of 2022

O R D E R:

The writ petition is filed seeking the following relief:

“... to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the notice dated 08.09.2022 in Roc No.08/Cir-II/W.No.09/2022 directing the petitioner to surrender the road affected portion free of cost in the interest of public at large and further notice dated 12.10.2022 in Roc No.12/ACP-II/W.No. 09/TP/GWMC/2022 directing the petitioner to submit explanation along with Ownership documents link documents and municipal building permission for the building premises bearing House No.3-1-130 and 3-1-131, Kakatiya Colony, near Alankar Junction, Hanamkonda without following due process of law as bad, illegal, arbitrary and violation of the principles of natural justice and consequently to quash and set aside both the notices dated 08.09.2022 and 12.10.2022 issued by the third and forth respondents and”.

2. Mr. T. Sudhakar Reddy, learned counsel for the petitioner submits that the petitioner is absolute owner and possessor of the building premises bearing house No.3-1-130 and 3-1-131 of Kakatiya Colony, near Alankar Junction, Hanamkonda. He submits that the petitioner has purchased the said property by way of registered sale deed dated 18.03.1994 and the petitioner has constructed a building in the plot and has been in physical possession and enjoyment of the same. It is stated that when there was interference by the respondents, the petitioner has filed O.S.No.242 of 2001 on the file of I Additional Senior Civil Judge, Warangal seeking damages and perpetual injunction and the said suit was decreed vide judgement

and decree dated 31.01.2004 and damages of Rs.50,000/- were also granted. He submits that thereafter, the petitioner was constrained to file a writ petition i.e.W.P.No.22400 of 2006 and the same was also disposed of on 30.10.2006 directing the respondents not to resort to any demolition activity without following the due process. He submits that now the respondents have issued the impugned notice dated 08.09.2022 whereby the petitioner is requested to remove and hand over the possession of the said road affected portion of the property to an extent of 81.36sq.yds to the respondents on free of cost in the interest of public at large within (7) days duly availing the concessions that are provided in the said order, failing which, the same will be removed and taken over under Section 185 r/w Section 176(1) of the Telangana Municipalities Act, 2019.

3. Mr. S. Surender Reddy, learned standing counsel for the respondent municipality submits that he will come up with a counter affidavit.

4. Earlier also, this court has directed the respondents not to issue these kind of proceedings when the property of a citizen is required for any public purpose. The respondents cannot compel the party to surrender or handover the property for a public purpose and they cannot compel them either to take Transferable Development Rights (TDR) or whatever concessions they are offering. If it is

acceptable to the person, the respondents can always proceed, but, they cannot give these kind of notices.

5. The impugned proceedings have to be set aside by imposing costs on the Commissioner. But, however, as a last opportunity, this writ petition is disposed of by setting aside the proceedings dated 08.09.2022 and the respondents shall not interfere with the petitioner's property without following the due process of law. If these kind of notices are again issued by the respondents, appropriate action will be initiated against the concerned. There shall be no order as to costs.

The Miscellaneous Applications, if any shall stand automatically closed.

2nd November, 2022

gvl

LALITHA KANNEGANTI, J