

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

W.P.Nos.42894 and 43146 of 2022

COMMON ORDER

Since both these writ petitions arise out of the common issue, they are being taken up together by this common order.

2. W.P.No.42894 of 2022 is filed with the following prayer:

“to issue Writ, Order or direction, more particularly, one in the nature of Writ of Mandamus declaring the action of the Respondents, more particularly, Respondent No.2 in interfering with the petitioners construction work over their property bearing H.Nos.19-6-223 and 19-6-224, in Sy.No.685, having built up area of RCC Roofed is 440 Sq.Feet, in an area of 325 Sq.Yards, situated at Regal Shoe Mart of Kalyan Nagar, Laxminagar Locality of Janagaon Revenue Village of Ramagundam Municipal Corporation (Code No. 2007011), Ramagundam Mandal, Peddapally District, within Registration District: Karimnagar, Sub-Dist: Peddapalli, without following the due procedure of law, as illegal, arbitrary, in violation of Articles 14, 21 and 300-A of the Constitution of India, in violation of principles of natural justice besides in violation of Telangana Municipalities Act and consequently, to direct the Respondents, more particularly, Respondent No.2 not to interfere with the construction activity over their property bearing H.Nos.19-6-223 and 19-6-224, in Sy.No.685, having built up area of RCC Roofed is 440 Sq. Feet, in an area of 325 Sq.Yards, situated at Regal Shoe Mart of Kalyan Nagar, Laxminagar Locality of Janagaon Revenue Village of Ramagundam Municipal Corporation (Code No. 2007011), Ramagundam Mandal, Peddapally District, within Registration District: Karimnagar, Sub-Dist: Peddapalli.”

3. W.P.No.43146 of 2022 is filed with the following prayer;

“to issue a Writ, order or direction one in the nature of Writ of Mandamus declaring the action of respondent Nos.2 and 3 in not considering petitioner’s representation dated 17-11-2022 regarding illegal construction of Cellar and additional floor than the Sanctioned Municipal plan by respondent No.4 in premises bearing No.19-6-223 and 224 of at Laxminagar, Godavarikhani, Peddapalli District, as illegal, arbitrary and unconstitutional and consequently direct respondent No.2 to take steps for demolishing illegal

structures raised by respondent No.4 in House premises bearing No. 19-6-223 and 224 of Laxminagar, Godavarikhani, Peddapalli District.”

4. Learned counsel for the petitioners in W.P.No.42894 of 2022 Mr. K. Ravinder Reddy submits that the petitioners have obtained permission for construction of stilt + 3 upper floors in the subject property and they have started construction and without any notice and without following due procedure, the respondent Municipality is interfering with the construction activity and hence, they have come up before this Court.

5. When the matter came up on 29-11-2022, this Court has passed the following order;

“W.P.No. 42894 of 2022

Rule nisi. Call for records.

Notice returnable in four weeks.

Learned Assistant Government Pleader for Municipal Administration takes notice on behalf of the 1st respondent.

Sri K. Prabhakar Rao, learned Standing Counsel takes notice on behalf of the 2nd respondent.

The respondents shall file their respective counter affidavits by the next date of hearing, else, the matter will be decided on merits.

Post on 06.01.2023.

I.A.No. 1 of 2022

Learned counsel for petitioners submits that the 2nd respondent is interfering with petitioners' construction work over their property bearing House Nos. 19-6-223 & 19-6-224 in Survey No. 685 without following due process of law.

The matter came up on 28.11.2022. Learned Standing Counsel Sri K. Prabhakar Rao submits that he has already informed the 2nd respondent and he is yet to get instructions. At his request, the Writ Petition was directed to be listed today.

Today also, it is submitted that in spite of his best efforts, the learned Standing counsel was not provided with instructions by the respondent. In these circumstances, the Court has no other alternative but to direct the respondents not to interfere with the petitioners' construction.

The respondents are directed not to interfere with the petitioners' construction activity in respect of House Nos. 19-6-223 and 19-6-224 in Survey No. 685 situated at Regal Shoe Mart of Kalyan Nagar

Laxminagar locality of Janagaon Revenue Village of Ramagundam Municipal Corporation until further orders.

6. Thereafter, W.P.No.43146 of 2022 came to be filed stating that the respondent Municipality is not taking any action on the unauthorized constructions made by the unofficial respondent No.4 i.e., petitioner No.1 in W.P.No.42894 of 2022, then this Court has directed to list both the writ petitions together.

7. Today, when the matters came up, learned Standing Counsel for respondent No.2 Mr. Kadam Prabhakar Rao, has passed on the instructions stating that the petitioners in W.P.No.42894 of 2022 have obtained permission for construction of stilt + 3 upper floors and they have raised an unauthorized construction of 4th floor and in that regard and basing on the complaint of petitioner in W.P.No.43146 of 2022, they have issued a show cause notice on 30-11-2022 and an explanation was submitted by the petitioners on 03-12-2022. He submits that the respondent Municipality will consider the said explanation and pass a final order.

8. The petitioners in W.P.No.42894 of 2022 have granted permission for construction of stilt + 3 upper floors. The respondent Municipality shall visit the site, take photographs and if any construction is made over and above the 3rd floor, they shall pass a final order and take further steps.

9. Accordingly, both the Writ Petitions are disposed of directing the respondent Municipality to take further action in accordance with law

pursuant to the show cause notice dated 30-11-2022 and the explanation submitted by the petitioners in W.P.No.42894 of 2022 dated 03-12-2022 and the entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. The petitioners in W.P.No.42894 of 2022 are directed to give a further reply, if any, within a period of one week thereafter. No order as to costs.

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

5th December, 2022.

sj

SMT LALITHA KANNEGANTI, J