

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT PETITION NO. 9177 of 2022

ORDER:

This writ petition is filed questioning the inaction of the respondent No.2 in considering the petitioner's representations dated 08.03.2021, 04.01.2022 and 07.02.2022 issuing building permission to respondent No.3 in F.No./Permit No.3006/20118/W2/2019, dated 12.10.2021 in respect of the petitioner's Agricultural dry land to an extent of 16 ½ gts in Sy.No.102A situated at Gorrekunta Village, Geesukonda Mandal, Warangal District (for short 'the subject land') as illegal, arbitrary and unconstitutional. Consequently, petitioner prayed for a direction to the respondents to consider his representations.

It is the case of the petitioner that he is the absolute owner and possessor of the above land having purchased the same under an Agreement of Sale-cum-General of Power of Attorney dated 04.02.2011. However, respondent No.3, without obtaining any valid permission, is trying to encroach the petitioner's land and also the adjacent land belonging to the Government.

It is the contention of the petitioner that respondent No.2 has not acted upon representations in respect of the illegal

encroachments of respondent No.3 over the subject property, which constrained him to file this present writ petition.

Respondent No.3 has filed a counter affidavit stating that he is the absolute owner of the subject land and he obtained valid building permission from respondent No.2 vide permit No.3006/20118/W2/2019, dated 12.10.2021, he strictly proceeded in accordance with the sanctioned building permission by respondent No.2. It is further stated that already a suit O.S.No.824 of 2011 was instituted against the petitioner and others by one Kadari Buchaiah and other persons claiming rights over the subject land, which is pending on the file of I Additional Senior Civil Judge, Warangal. Pending finalization of the suit instituted by third parties, petitioner only with an intention to stop the construction activity being carried by respondent No.3 has filed the present writ petition and therefore this writ petition as filed is not maintainable and is liable to be dismissed.

Learned Standing Counsel for respondent No.2 has submitted that representations of petitioner were received by respondent No.2 and action under the provisions of the Municipalities Act, 1955 for removal of the illegal construction/unauthorized construction carried out by respondent No.3 has been taken and after removal of the illegal

construction, respondent No.3 has made an application seeking building permission and building permission was granted in favour of respondent No.3 and consequently there is no illegal construction by respondent No.3. However, he submits that as there is no violation in the construction carried out by respondent No.3 as of now proper action would be taken for removal of the encroachments, if any made further by respondent No.3 to see that the same is in conformity with the construction permission granted in his favour.

Since the action has been taken on the representation of the petitioner, cause does not survive. However, if still aggrieved, the petitioner is entitled to make a representation before respondent No.2 either for removal of the illegal constructions or for seeking cancellation of the building permission granted in favour of respondent No.3 in accordance with law.

With above observation, this writ petition is disposed of. No costs.

C.V.BHASKAR REDDY, J

30.01.2023
ssm