

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

WRIT PETITION NO.16441 of 2023

ORDER:-

Heard M/s.V.Dushyant Reddy, learned counsel for the petitioner, Sri V.Sai, learned counsel appearing on behalf of Sri N.Ranga Reddy, learned Standing Counsel for respondent Nos.2 & 3, learned Government Pleader for respondent No.1 and Sri V.Nitesh, learned counsel for respondent No.4.

2. This writ petition is filed under article 226 of Constitution of India for the following relief:-

“to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus to declaring the inaction of Respondent No.2 & 3 against the proposed illegal and unauthorized construction carried out by the respondent No.4 in the land measuring an extent of Ac.0.13 cents in Sy.Nos.188, 189 and 190/1 situated in N.Mydukur Village, Mydukur Town and Mandal, YSR Kadapa District inspite of my representation dated 05.06.2023 without obtaining building permission as illegal, arbitrary and contrary to the provisions of Andhra Pradesh Metropolitan Region and Urban Development Authority Act, 2016, Municipal Corporations Act, 1955, Andhra Pradesh Municipalities Act, 1965, Andhra Pradesh Capital Region Development Act, 2014 and the Andhra Pradesh Regulation and Penalization of Buildings Constructed Unauthorizedly and in Deviation to the Sanctioned Plan Rules, 2019, besides being opposed to the

very spirit and nature of Articles 14, 21 and 300-A of the Constitution of India and consequently direct the respondent authorities not issue any building permits and approvals for the proposed illegal and unauthorized construction carried out by the respondent No.4 over the subject land and/or pass such other order or orders...”

3. Learned counsel for the petitioner submits that respondent No.4 is raising some construction without obtaining any building permission.

4. Learned counsel appearing for respondent No.4 points out that O.S.No.87 of 2014 and O.S.No.54 of 2011, with respect to the same property was pending between the same parties in the Court of Senior Civil Judge, Mydakur, Kadapa. In the counter affidavit, respondent No.4 has submitted that he is not constructing any building in the land in question as of now except laying small calvert joining his land with that of the adjoining road and except that there is nothing done by respondent No.4. It is further submitted that, if respondent No.4 in future wants to construct any building over his property, the same will be done after obtaining requisite permission from the Municipality.

5. Learned counsel for respondent Nos.2 & 3 referring to the counter affidavit submits that the Municipality-respondent

No.2, has not sanctioned any building permission in the alleged site to respondent No.4. The site is vacant till date and there is no building material in the site. Even foundation pits are not formed and on ground no building construction is taking place.

6. Learned counsel for the petitioner submits that those facts are not correct and in fact respondent No.4 is doing construction.

7. In view of the aforesaid submissions and the pleadings in writ petition and counter affidavit, the petitioners involves disputed the questions of fact with respect to raising or not raising of constructions by respondent No.4.

8. It is, however, the stand of the Municipality that there is no building permission in favour of respondent No.4. Respondent No.4 stand is also to raise construction in future, if so desired, after obtaining the building permission.

9. In view of the specific averments in the counter affidavits of the respondents, as aforesaid, this Court at this stage does not find any reason to proceed further with the writ petition.

10. The two suits with respect to the same property are pending between the parties. The dispute is purely a private civil dispute between the private parties. If the petitioner has any

grievance, he may approach in the pending suits for appropriate relief, if so desired. The writ petition is not the appropriate remedy.

11. With the aforesaid observations, the Writ Petition is dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI, J

Date: 14.09.2023

RKS