

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
TUESDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI
WRIT PETITION NO: 28829 OF 2022

Between:

Mr. Rakesh Tiwari, S/o Late S.P Tiwari.

Petitioner

AND

1. State of Telangana, Rep by its Secretary, Municipal Administration and Urban Development Secretariat Buildings, Hyderabad-500022
2. State of Telangana, Rep by its Secretary, Panchayat Raj and Rural Development, Secretariat Buildings, Hyderabad- 500022
3. Narsingi Municipality, Rep by its Municipal Commissioner, Narsingi Municipal Office Narsingi, Gandipet Mandal Hyderabad- 500089
4. Hyderabad Metropolitan Development Commissioner, Rep by its Metropolitan Commissioner, Block 'A', District Commercial Complex, Tarnaka, Hyderabad - 500007.
5. Smt V Shilpa Reddy, W/o Ravikanth Reddy, Aged about 40 years, Occ- Business, R/o H. No. 1-2-304, Flat No. 203, Arvind Residency, Domalguda, Hyderabad

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or direction and more particularly one in the nature of Writ of Mandamus or any other Writ, declaring the Order dated 17.04.2022 bearing Proc No. 1417/TPS/NMC/ 2022 ('Impugned Order') whereby Respondent No. 3 failed to take any action against the illegal construction being carried out by the 5th Respondent on the land located in Sy. No. 66/EE, situated at Vattinagulapally Village, Ranga Reddy District (Subject land) as being arbitrary, illegal and unconstitutional and consequently- a. Set aside the Order dated 17.04.2022 bearing Proc No. 1417/TPS/NMC/2022. b. Direct the Respondents No. 1-4 to demolish the illegal construction being carried out by the Respondent No. 5 on the land in Sy No. 66/EE, situated at Vattinagulapally Village, Ranga Reddy District (Subject land).

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Order dated 17.04.2022 bearing Proc No. 1417/ TPS/ NMC/ 2022 thereby directing the Respondent No. 3 to take action against the illegal construction being carried out by the 5th Respondent on land in Sy No. 66/ EE, situated at Vattinagulapally Village, Ranga Reddy District, Pending disposal of WP 28829 of 2022, on the file of the High Court.

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No. 3 to file a report supported with a sworn affidavit before this Honble Court disclosing the following particulars/documents- (i) particulars of the construction carried out by Respondent No. 5 on the Subject Property along with Inspection report with photographs

of the nature of construction carried out by Respondent No. 5 on the Subject land; (ii) Particulars of the building permission/ sanctioned plans sanctioned in favour of Respondent 5 for construction on the Subject land by the Vattinagulapally Gram Panchayat or the Respondent No. 3 along with the extent of the Subject land for which such permissions were sanctioned, Pending disposal of WP 28829 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI AVINASH DESAI Advocate for the Petitioner, ASSISTANT GP FOR MCPL ADMN URBAN DEV for the Respondent no.1, ASSISTANT GP FOR PANCHAYAT RAJ for the respondent no. 2, SRI N. PRAVEEN KUMAR, Advocate for the respondent no. 3, SRI Y. RAMA RAO, Advocate for the respondent no.4, the Court made the following.

ORDER

Learned counsel for the petitioner submits that in the earlier round of litigation, this Court in Writ Petition No. 7328 of 2022, by order dated 24.03.2022, has observed that *'whatever may be the civil disputes that are pending between the parties by virtue of the orders passed by this Court on 16.08.2019 in Writ Petition No. 17548 of 2019, the respondents are bound and ought to have passed final order and the reason stated that they could not pass orders in view of the pendency of the Writ Petitions and the Writ Appeal has no nexus for passing the final orders by the respondents. Hence, the said contention deserves to be rejected'*. He submits that pursuant to the said order, the respondent authorities have issued notice to the parties and passed the order impugned on 17.04.2022. Learned counsel submits that in the entire order, the respondent authorities have extracted the contentions and in the last paragraph, it is stated that the gram panchayat has issued building permission for ground + 1st floor in favour of the 5th respondent on 27.02.2019 and she has constructed ground and first floors and also they say that this particular zone is earmarked as conservation zone and further they referred to the order in Writ Petition No. 4670 of 2019 stating that the petitioner has to wait for the result of A.S.No. 54 of 2019. Learned counsel submits that in the earlier round of litigation, when a contempt is filed, the respondent authorities have filed documents to show that the 5th respondent was granted permission by the gram panchayat in the year 2019. In that, it is specifically mentioned that the permission is for renovation of ground floor. He submits that now, in the order impugned, it is mentioned that the 5th respondent has constructed ground + one floor and as a formality and as a ritual, they passed this order without even mentioning whether the construction made by the 5th respondent is illegal or as per the permission obtained by them. He further submits that apart from that, when the respondent officers have specifically mentioned that it is in conservation zone, how the permission is granted and whether such permission can be granted is not clear. Learned counsel submits that the petitioner has filed all the photographs to show that it is not renovation but the 5th respondent has made new construction. According to the learned counsel, none of these factors were considered and conveniently, without giving any finding, the order impugned is passed.

Learned Standing Counsel for the respondent Municipality Sri N. Praveen Kumar submits that they will file a detailed counter- affidavit in this matter.

The respondent municipality shall file a detailed counter-affidavit with regard to the construction made by the 5th respondent; whether the same is constructed duly obtaining permission and what is the permission granted to her; whether in a conservation zone, such permission can be granted and as per their own documents which are filed along with contempt case, they show that it is only ground floor

whereas in the order impugned, they say that it is ground + first floor and in that case, what is the action that is initiated by the respondent municipality.

According to the petitioner, the 5th respondent is still making construction. If any construction is going on, the respondent municipality shall take appropriate action after affording an opportunity of hearing to the unofficial respondent.

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.

Learned Assistant Government Pleader for Panchayat Raj takes notice on behalf of the 2nd respondent.

Sri N. Praveen Kumar, learned Standing Counsel takes notice on behalf of the 3rd respondent.

Sri Y. Rama Rao, learned Standing Counsel accepts notice on behalf of the 4th respondent.

Learned counsel for the petitioner is permitted to take out personal notice to the 5th respondent by Registered Post and file proof of service.

Post on 08.09.2022.

SD/- K. VENKAIAH
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Municipal Administration and Urban Development Secretariat Buildings, State of Telangana, Hyderabad-500022 (by RPAD)
2. The Secretary, Panchayat Raj and Rural Development, Secretariat Buildings, State of Telangana, Hyderabad- 500022 (by RPAD)
3. The Municipal Commissioner, Narsingi Municipal Office Narsingi, Narsingi Municipality, Gandipet Mandal Hyderabad- 500089 (by RPAD)
4. The Metropolitan Commissioner, Hyderabad Metropolitan Development Commissioner, Block 'A', District Commercial Complex, Tarnaka, Hyderabad - 500007. (by RPAD)
5. Smt V Shilpa Reddy, W/o Ravikanth Reddy, Occ- Business, R/o H. No. 1-2-304, Flat No. 203, Arvind Residency, Domalguda, Hyderabad (by RPAD)
6. One CC to SRI. AVINASH DESAI Advocate [OPUC]
7. Two CCs to GP FOR MCPL ADMN URBAN DEV, High Court for the State of Telangana at Hyderabad. [OUT]
8. Two CCs to GP FOR PANCHAYAT RAJ, High Court for the State of Telangana at Hyderabad. [OUT]
9. One spare copy

HIGH COURT

LKJ

DATED:12/07/2022

POST ON 08.09.2022.

ORDER

WP.No.28829 of 2022

DIRECTION

