

THE HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO

WRIT PETITION No.6876 of 2022

ORDER:

The petitioner had obtained building permission bearing No.1131/0187/B/VNK/KTP/2021 dated 30.11.2021, for constructing a house in D.No.28-16/1, Lawyer street, Vinukonda, Guntur District.

2. The respondent-Municipality issued a final notice bearing No.3/G1/2022 dated 08.03.2022 calling upon the petitioner, not to make any further construction on the ground that the petitioner was seeking to build a cellar in the house and the same was in violation of the building plan which was approved by the 2nd respondent-Municipality.

3. Aggrieved by the said final notice, the petitioner has approached this Court, by way of the present writ petition.

4. The case of the petitioner is that the petitioner had to excavate the land for laying his foundations due to the nature of the soil in the area. The petitioner claims that the excavation was done only to ensure a proper foundation and not because the petitioner is seeking to construct an unauthorized cellar in the house.

5. The 2nd respondent-Municipality has also filed a counter affidavit stating that the nature of the excavation makes it clear that the petitioner is seeking to construct a

cellar which is unauthorized and that was stopped by issuance of the final notice.

6. In view of this conflict between the petitioner and the 2nd respondent, it would be appropriate to dispose of the writ petition with the following directions in order to balance the interest of the petitioner on the one hand and the requirement of the 2nd respondent that the petitioner should adhere to the building plan;

- 1) The petitioner shall be permitted to complete the foundation work without any hindrance by the 2nd respondent-Municipality;
- 2) The petitioner while undertaking foundation work shall not make any construction above the ground level till the foundation work is completed;
- 3) Upon completion of the foundation work, the petitioner shall fill up the excavated area and ensure that there is no cellar or any excavated area left open below the ground level;
- 4) Upon completion of the filling up of the excavated area, the petitioner shall be entitled to undertake further construction strictly in accordance with the building permission given by the 2nd respondent.

7. In the event of any violation of the above directions, the 2nd respondent-Municipality shall be entitled to take action in accordance with law.

Accordingly, this writ petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

JUSTICE R.RAGHUNANDAN RAO

Date : 01.07.2022

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