

Vikrampuri Co-operative House Building Society Ltd. Vs Secunderabad Cantonment Board and Others

Court: Andhra Pradesh High Court

Date of Decision: Dec. 22, 2006

Acts Referred: Cantonments Act, 2006 " Section 340, 343
Constitution of India, 1950 " Article 226

Citation: (2007) 3 ALD 494 : (2007) 3 ALT 192

Hon'ble Judges: G.S. Singhvi, C.J; C.V. Nagarjuna Reddy, J

Bench: Division Bench

Advocate: P. Srinivas, for the Appellant; Deepak Bhattacharjee and A. Raja Sekhar Reddy, Assistant Solicitor for Respondent Nos. 2 to 5 and None for Respondent Nos. 6 to 9, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

G.S. Singhvi, C.J.

In this petition, the petitioner has prayed for issue of a direction to Secunderabad Cantonment Board (for short, the Board") to demolish the alleged illegal construction made by respondent Nos. 6 to 9 on Plot No. C-2, Vikrampuri Colony, Secunderabad. It has

been further prayed that respondent Nos. 6 to 9 be restrained from alienating the alleged illegal structures and the Board be directed to seal Plot

No. C-2 and stop all further activities on the said plot.

2. In the affidavit filed by him, Shri W.V. Ramana, Secretary of the petitioner society has averred that despite the objections raised by the society

against the construction of commercial structure on Plot No. C-2, which is a residential plot, respondent Nos. 6 to 9 have erected a huge

commercial complex and that too in complete violation of the sanctioned plan. In paragraphs 4 and 5 of his affidavit, Shri W.V. Ramana has given

the details of the so-called violation of the sanctioned plan. In paragraph 6, he has referred to the civil suit filed by Shri A. Ananta Krishna Rao

whose plot arid house is situated on the northern side of Plot No C-2 and averred that even though III Senior Civil Judge, City Civil Court,

Secunderabad passed an order of injunction on 24-11 -2005, respondent Nos. 6 to 9 did not stop the construction activity.

3. We have heard Shri P.Srinivas, learned Counsel for the petitioner and perused the record. In our opinion, the writ petition is liable to be

dismissed because the petitioner has already got itself impleaded as party in the civil suit filed by Shri A. Ananta Krishna Rao, which is registered

as O.S. No. 936 of 2005 and is pending in the Court of III Senior Civil Judge. City Civil Court, Secunderabad. Not only this, the interim order

passed by the Civil Court on 24-11-2005 restraining the private respondents from raising construction is still operative. It the petitioner finds that

the order of injunction is being violated, then it can avail appropriate legal remedy for seeking enforcement of order dated 24-11-2005 passed by

the Civil Court.

4. The other reason for our disinclination to entertain the prayer made by the petitioner is that effective alternative remedies are available to the

petitioner by way of appeal and revision under Sections 340 and 343 of the Cantonment Act, 2006 (for short, "the Act") and there is no

extraordinary reason for making a departure from the settled rule that the High Court will not entertain a petition under Article 226 of the

Constitution of India, if an effective alternative remedy is available to the petitioner.

5. With the above observation, the writ petition is dismissed leaving the petitioner free to avail the alternative remedies under Sections 340 and 343

of the Act.

6. As a sequel to dismissal of the writ petition, WPMP Nos. 34100 and 34101 of 2006 filed by the petitioner for interim reliefs are also dismissed.