

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

Writ Appeal No.231 of 2015

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DATED:20.03.2015

Between:

Municipal Corporation of Visakhapatnam,
Represented by its Commissioner,
Visakhapatnam,
Visakhapatnam District.

... Appellant

And

Surapaneni Deepthi,
Visakhapatnam and others.

....Respondents

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AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

-
Writ Appeal No.231 of 2015

Judgment: (per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

This appeal is sought to be preferred by the Municipal Corporation against the judgment and order of the learned Single Judge dated 1.12.2014, by which, His Lordship has been pleased to direct the appellants to take appropriate decision on the application made by the 1st respondent-writ petitioner seeking permission to construct a building in accordance with the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 (hereinafter referred to as 'the Act') and Building Rules and Regulations made thereunder, without insisting for production of 'No Objection Certificate' from the revenue authorities.

Learned counsel for the appellants says that the production of No Objection Certificate is a must under Sub-Section (1) of Clause (aa) of Section 429 of the above Act. We, therefore, reproduce the relevant portion of the same:

"A copy of the title deed of the land duly attested by a Gazetted Officer of the Government together with an urban land ceiling clearance certificate or as the case may be an affidavit referred to in Section 388."

If we read the aforementioned portion, Urban Land Ceiling Clearance Certificate is required. The learned Trial Judge recorded that Municipal Corporation wants production of 'No Objection Certificate' from the Revenue Authorities. But, nothing has been

shown to say that 'No Objection Certificate' from the revenue authorities is required in order to process the application for taking a decision.

Learned counsel for the respondent says that no Urban Land Ceiling Clearance Certificate is required as the Urban Land (Ceiling & Regulation) Act, 1976 has been repealed. Moreover, even under the Act, there is no provision for issuing any 'No Objection Certificate' by any authority.

It is next argued that the land belonged to the Government and the 1st respondent-writ petitioner has no title over the land. We think that the Municipal authority cannot decide the disputed question of title. If the land belonged to the Government, it is for the Government to take up the matter in accordance with law. It is also settled law that by conveyance, one cannot get greater and better title than what the vendor has. In the event, the 1st respondent-writ petitioner has not acquired any title over the land, any construction made thereon do not validate or legalise such transfer. We make it clear sanction granted and construction to be made will not create any equity if it is found later on transfer does not convey title.

The writ appeal is accordingly disposed of.

Pending miscellaneous applications shall also stand closed.

No costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR,
J

20th March, 2015

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