

**THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

**WRIT PETITION No.3515 OF 2010**

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**ORDER:**

The case of the petitioner-society is that it is the absolute owner and possessor of the land to an extent of Ac.5.12 cents in R.S.No.143 of K.Tadepalli Village of Vijayawada Rural Mandal, Krishna District and the said land was purchased for the purpose of constructing a school building and accordingly an application was made on 16.09.1997 for conversion of the land from Agricultural purpose to non agricultural purpose and permission was accorded. The said permission was granted vide G.O.Ms.No.34, M.A., dated 24.01.2003, on payment of necessary developmental charges by the petitioner, subject to certain conditions. Thereupon, the 2<sup>nd</sup> respondent issued proceedings dated 24.02.2003, whereunder the petitioner was asked to submit plan for construction of building and the petitioner also submitted plan for construction of ground plus first floor and the same was also approved on 22.01.2005 by the 2<sup>nd</sup> respondent on payment of amount as fixed by the 2<sup>nd</sup> respondent. Thereafter the petitioner constructed the ground and first floor as per the approved plan without any deviations and also made an application on 23.05.2006 to the 2<sup>nd</sup> respondent for approval of second floor. The 2<sup>nd</sup> respondent in turn approved the construction plan on 26.06.2006. It is also stated that while making the application for approval of plan for construction of second floor, the petitioner made payment of Rs.2,36,750/- on 28.03.2003 and also an amount of Rs. 77,380/- on 03.05.2003. While the matter stood thus, the petitioner received a letter from the 1<sup>st</sup> respondent vide proceedings dated 09.09.2009, where under the petitioner was asked to pay the construction fee within a period of seven days. After receipt of the

same, petitioner filed a representation dated 12.09.2009 stating that the plans were approved by the 2<sup>nd</sup> respondent after payment of necessary fee and accordingly no permission was obtained from the 1<sup>st</sup> respondent nor payment is to be made towards the construction fee. In spite of submitting reply by the petitioner, the 1<sup>st</sup> respondent issued legal notice dated 06.01.2010, demanding the petitioner to pay the amount. Aggrieved by the same, present writ petition is filed.

The 1<sup>st</sup> respondent filed counter stating that the building permission was obtained by the petitioner from the 2<sup>nd</sup> respondent on payment of developmental charges, conversion charges etc., only. But the 2<sup>nd</sup> respondent has not collected the building permission fee as the same is to be paid to the local body concerned. It is stated that whatever the fee that is paid to the 2<sup>nd</sup> respondent does not include the building permission fee; that the clarification letter dated 21.06.2010 clearly indicates that the petitioner has not paid the building permission fee to the 2<sup>nd</sup> respondent, therefore, the petitioner is bound to pay the building permission fee to the 1<sup>st</sup> respondent. It is further stated that the demand notice that was given by the 1<sup>st</sup> respondent is based on the area of construction which was clearly indicated in the notice dated 15.12.2009; and that prior to issuance of G.O.Ms.No.678, dated 7-09-2007, building permission fee has to be paid to the Local Body concerned and after issuance of the said G.O, the 2<sup>nd</sup> respondent will collect the building permission fee and remit to the local body concerned. It is further stated that since the building permission was granted in the year 2003 and 2006, the petitioner has to pay the building permission fee to the 1<sup>st</sup> respondent Gram Panchayat and that even as per the version and clarification of the 2<sup>nd</sup> respondent,

the 2<sup>nd</sup> respondent has not collected the building permission fee from the petitioner, as such the petitioner cannot evade the payment of building permission fee due to the 1<sup>st</sup> respondent.

The 2<sup>nd</sup> respondent filed counter stating that this authority has granted building permission for construction of ground and first floor on 23.05.2003 duly collecting Rs.2,59,395/- towards developmental charges and application fee and that the petitioner has not paid any building fee or building licence fee to this respondent, which is payable to Gram Panchayat. It is also admitted that the petitioner has paid Rs.2,36,750/- on 28.03.2003 towards development charges for obtaining building permission and also paid an amount of Rs.77,380/- towards application fee and security deposit on 03.05.2003.

Learned counsel for the petitioner submits that without collecting building permission fee, permission will not be granted by the respondents. He also submits that necessary fee was paid to the 2<sup>nd</sup> respondent while obtaining permission for construction of second floor as such question of payment of building fee to the 2<sup>nd</sup> respondent does not arise.

On the other hand, Smt.K.Mani Deepika, learned Standing Counsel for the 2<sup>nd</sup> respondent submits that the 2<sup>nd</sup> respondent has collected only developmental charges and application fee and that prior to issuance of G.O.No.678, dated 7-09-2007, it is for the 1<sup>st</sup> respondent to collect the building permission fee, but after issuance of the said G.O, the 2<sup>nd</sup> respondent has to collect the building permission fee and remit the same to the 1<sup>st</sup> respondent. It is further stated that since the 1<sup>st</sup> respondent stated that they have not

collected the building permission fee, it is for the 1<sup>st</sup> respondent to collect the same.

In this case, there is no dispute regarding payment of amounts to the 2<sup>nd</sup> respondent, since the petitioner states that he has paid an amount of Rs.2,36,750/- and Rs.77,380/- to the 2<sup>nd</sup> respondent and the 2<sup>nd</sup> respondent also admit receipt of the aforesaid amount towards developmental charges for obtaining building permission and application fee. But, petitioner is not able to show that he has paid the building permission fee.

As per clause 19(c) of G.O.Ms.No.678, dated 07.09.2007, building permit fee collected by the UDA will be transferred to local bodies and the development charges collected by the local bodies shall be remitted in a separate account and transferred to UDA.

In this case, admittedly, the permission is approved prior to issuance of G.O.Ms.No.678, dated 07.09.2007 and the 2<sup>nd</sup> respondent categorically denies that it has collected building permission fee. As such, the 1<sup>st</sup> respondent is entitled to collect the same. Though, petitioner asserts that he has paid building permission fee, he has not shown any other documents to prove the same. The impugned proceedings states that petitioner can file proof of the same. In view of the same, I do not see any merits in the writ petition.

Accordingly, the writ petition is dismissed. However, if petitioner wants to prove that it has paid the building permission fee, it can bring the same to the notice of the 1<sup>st</sup> respondent within two weeks from the date of receipt of a copy of this order. Otherwise, the 1<sup>st</sup> respondent can proceed as per the impugned proceedings. No

order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending in the writ petition shall stand closed.

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**A.RAJASHEKER REDDY, J**

12.10.2015

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