

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.10700 OF 2015

O R D E R :

This writ petition is filed seeking *Writ of Mandamus* declaring the action of the 3rd respondent in rejecting the proposal submitted by the petitioner through letter dated 21.11.2013 and served on the petitioner in August 2014 and again insisting for furnishing the copy of sub-division approval through his letter dated 27.02.2015 as illegal and arbitrary and for a consequential direction to set aside the same and direct the 3rd respondent to approve the plan submitted by the petitioner without insisting for sub-division plan.

The case of the petitioner is that she is owner and possessor of the plot admeasuring 205 sq.yards situated at Asif nagar having purchased the same through a registered sale deed dated 31.05.2013 from one Praveen Kumar and Pavan Kumar for a sale consideration Rs.12,00,000/- (twelve lakhs rupees only). The said property is assessed to property tax. She has purchased the said property with an intention to construct a residential house. As such, she submitted the plan with necessary required documents on 18.10.2013 to the respondents for sanction of permission to construct house by depositing the requisite fee. As there was no response from the respondents, the petitioner's husband proceeded with construction. While so, the 3rd respondent issued rejection letter dated 20.11.2013 stating that his proposal attract the sub-division under Section 388 of Hyderabad Municipal Corporation Act, 1955, but the same was communicated to the petitioner in the month of August. After receipt of said letter though the petitioner has complied with some of the conditions, once again the 3rd respondent issued another notice dated 27.02.2013 asking the petitioner to furnish a copy of sub-division approval of the said land under Section 388 of the Act. Aggrieved by

the same, the present writ petition is filed.

Learned counsel for the petitioner submits that for construction of single building, lay out plan sanction is not necessary. In support of his contention, he relied on judgment reported in ***Amar Estate Pvt.Ltd., by its Managing Director Ravi Kumar Chri and another vs. State of A.P. rep. by its Secretary, Municipal Administration Department, Secretariat, Hyderabad and others***^[1].

Sri P.Krishna Reddy, learned Standing counsel appearing for respondent-Corporation submits that there are several complaints and objections from 3rd parties for grant of permission for construction of house in the subject land.

In ***Amar Estate Pvt.Ltd. case*** (supra 1), it is held that

“Two questions fall for consideration in the writ petition”

- (1) Whether lay out sanction is necessary for the construction of a single building?
- (2) Whether the permission sanctioned by the Municipal Corporation of Hyderabad is visited due to the fact that the width of the land is only 14.6 feet?

Section 388 of the Hyderabad Municipal Corporation Act which deals with the requirement of notice regarding intention to lay out lands for building and for private streets, in so far as it is material for the present may be read

“Notice to be given to the Commissioner of intention to lay out lands for building and for private streets:-

- (a) to sell or let on lease any land subject to a covenant or agreement on the part of purchaser or lessee to erect buildings thereon
- (b) to divide land (whether unbuilt or partly built) into building plots
- (c) to use any land or portion thereof or permit the same to be used for building purposes, or
- (d) to make or lay out a private street whether it is intended to allow the public a right of passage or access over such street or not, shall give written notice of his intention to the Commissioner and shall along with such notice, submit plans and sections.....”

It will clear from the language of Section 588 that only where

there is proposal for construction of more than one building the requirement of sanction for lay out is necessary.

5. The Bhagyanagar Urban Development Authority Zoning Regulations, 1981 apply to all development works within the limits of Municipal Corporation of Hyderabad and they may be extended to other areas within the development area from time to time. Development is defined as:

“Development with grammatical variation means the carrying out of building, engineering, mining or other operations in or over, or under land or water or the making of any material change in any building or land, or in the use of any building or land, and includes redevelopment and layout and sub-division of any land and to develop” shall be constructed accordingly.”

which shows that for construction of single building, lay out sanction is not necessary.

In view of the above, the 3rd respondent is directed to consider the application of the petitioner dated 18.10.2013 without insisting for sub-division plan by taking into account all the objections and representations by the 3rd parties and pass orders and accordingly take appropriate action within a period of six (6) weeks from the date of receipt of copy of this order.

Accordingly, the writ petition is disposed of. There shall be no order as to costs. As a sequel, miscellaneous petitions, pending, if any shall stand closed.

A.RAJASHEKER REDDY, J

24.04.2015

**CC by one week
(B/o) dv**

[\[1\]](#) 1988 ALT (1) 767