

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.2645 OF 2015

ORDER:

This writ petition is filed seeking a *Writ of Mandamus* declaring the action of the 2nd respondent in returning the plan submitted by the petitioners for construction of Stilt + G + Two Upper Floor RCC Roof residential building in Sy.No.50/4P with an extent of 288.88 sq.yards situated in Muralinagar, Madhavadara Village, Visakhapatnam through endorsement dated 23.06.2014, as illegal, arbitrary and contrary to the provisions of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') and for a consequential direction to set aside the same.

The case of the petitioners is that they have jointly purchased the vacant site property along with ACC Sheet Roof building bearing D.No.39-4-7/1/1 in Sy.No.50/4P with an extent of 288-88 sq.yards situated in Muralinagar, Madhavadara Village, Visakhapatnam through a registered sale deed dated 21.02.2013. While so, they have made an application on 20.01.2014 to the 2nd respondent seeking permission for construction of Stilt + G + Two Upper Floors in the subject land and also paid necessary fee. But the 2nd respondent returned the plan of the petitioners through an endorsement dated 23.06.2014 on the ground that they have to obtain Clearance/NOC from SVLN Devastanam. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner submits that the subject matter of this writ petition is squarely covered by the judgment reported in ***Hyderabad Potteries Private Limited v. Collector, Hyderabad District and another*** and also he relied on the order dated 03.07.2013 passed by this Court in W.P.No.18916 of 2013 wherein it is held that respondents have no power to ask for NOC from the petitioners.

On the other hand, the learned Standing counsel for the 2nd respondent submits that there are disputes regarding petitioners' property, as such, the petitioners

are not entitled for grant of permission.

In the instant case, the learned Standing counsel has not disputed the fact that respondents cannot insist the petitioners for Clearance certificate. A perusal of the impugned endorsement also shows that the application made by the petitioners is rejected only on the ground that they have not obtained Clearance certificate from the SVLN Devasthanam. Though counter is filed, it does not show that the impugned order is passed basing on the aspects stated in the counter. Therefore, the same is not considered by this Court. In view of the judgment reported in ***Hyderabad Potteries Private Limited v. Collector, Hyderabad District and another*** and in view of the order passed by this Court in W.P.No.18916 of 2013, the impugned order is set aside. The respondent Corporation is directed to receive the application of the petitioners, without insisting for Clearance certificate from SVLN Devasthanam and consider the same and pass orders in accordance with law within a period of four (4) weeks from the date of receipt of copy of this order.

Accordingly, 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

09.03.2015

dv

