

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 11024 of 2011

ORDER:

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Heard learned counsel for the petitioners, Government Pleader for Revenue and learned Standing Counsel appearing for the third respondent-G.H.M.C. With the consent of all the parties, the main writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus to declare the endorsement No.11/391/2010, dated 13.09.2010 of the first respondent in refusing to issue No Objection Certificate in respect of land admeasuring 415 square yards in house bearing No.8-2-277/A/3, Road No.2, Banjara Hills, Shaikpet Village and Mandal, Hyderabad, as illegal, arbitrary and violative of principles of natural justice; and consequently direct the respondents to issue "no objection certificate" in pursuance of the application dated 15.01.2010.

The averments in the affidavit filed in support of the writ petition are as under:

The husband of the first petitioner by name Munawar Ali Khan Lodi purchased plot admeasuring 620 square yards in house bearing No. 8-2-277/A situated at Road No.2, Banjara Hills, Shaikpet Village and Mandal, Hyderabad, from its original owner Syed Moinuddin Ahmed vide document No.911 of 1967 and since then he was in continuous possession and enjoyment of the same. After obtaining permission from the third respondent vide permit No.13/3 of 1995, dated 27.10.1995, the husband of the first petitioner constructed two storied building in the said plot. After the death of Munawar Ali Khan Lodi, the said property devolved upon the petitioners along with other legal heirs of the deceased Munawar Ali Khan Lodi. While things stood thus, the Government acquired 205 square yards of land vide acquisition proceedings No.722/ RW/ACP/C5/MCH/2005, dated 05.12.2005 for widening of the road and the remaining extent of land admeasuring 415 square yards is in possession and enjoyment of the petitioners. It is stated that on 15.01.2010 the petitioners made an application before the first respondent seeking issuance of "No Objection Certificate" for the purpose of construction of house. The first respondent made an endorsement vide endorsement bearing No.11/391/2010 dated 13.09.2010 stating that the property applied for issuance of "No objection

Certificate” is “Evacuee property” and the request of the petitioners cannot be accepted in view of G.O.Ms.No.2111, Revenue (Assn.III) Department, dated 05.12.2005 and G.O.Ms.No.93, Revenue (Assn.III) Department, dated 28.01.2006 and consequently directed the third respondent not to accord building permission in favour of the petitioners. Challenging the said action the present writ petition came to be filed.

At the time of when the matter is taken up for hearing the learned Standing Counsel for the third respondent placed on record the Circular No.245/TPS/GHMC/HO/2014, dated 19.08.2015 issued by the Commissioner, G.H.M.C., Hyderabad. The relevant portion of the said circular is as under:

“The Commissioner shall not insist for production of No Objection Certificate (NOC) from the Revenue Department and shall consider the objections if any made by the Revenue Authorities on behalf of the Government. However, for *prima facie* satisfaction, the Commissioner can require production of further particulars and details including extract of relevant entries in Revenue/TSLR/Municipal Records etc., for his *prima facie* satisfaction of title and legal possession of applicant, but application for grant of permission cannot be rejected solely on the basis of entries in Revenue/TSLR/Municipal Records. The Commissioner has to assess all the documents submitted before him for his *prima facie* satisfaction of title and legal possession for approval of building permit.”

The circular issued by the G.H.M.C. shows that the Commissioner shall not insist for production of “No Objection Certificate” but shall consider the objections raised by the Revenue Department on behalf of the Government. The circular also gives all the authority to the Commissioner to assess all the documents for his *prima facie* satisfaction of title and possession. Therefore, if any application is made seeking permission for construction of houses etc., the authorities shall deal with the same in terms of Circular No. 245/TPS/GHMC/HO/ 2014, dated 19.08.2015, without insisting for “No objection Certificate”.

The averments in the affidavit filed in support of the writ petition would show that the petitioners made an application for issuance of “No objection Certificate”, which was rejected on 13.09.2010 basing on G.O.Ms.No.2111, Revenue (Assn.III) Department, dated 05.12.2005 and G.O.Ms.No.93, Revenue (Assn.III) Department, dated 28.01.2006 and consequently directed the third respondent not to accord building permission in favour of the petitioners. But having regard to the Circular

No.245/TPS/GHMC/HO/2014, dated 19.08.2015 issued by the Commissioner, G.H.M.C., Hyderabad, the third respondent is directed to accord building plan permission in terms of the said circular without insisting for “No objection Certificate”.

With the above direction, the writ petition is disposed of. No order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

28.10.2015

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