

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.34241 of 2015

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ORDER :

According to the petitioners, they have taken lease of land admeasuring 1000 Sq.yards in plot Nos.158-C, 159-C and 160-C in Sy.No.60 of Raghavendra Colony, C-Block, Kondapur, Serilingampally Mandal, Ranga Reddy District, on 06.07.2015 for a period of nine years eleven months. Consequently, the petitioners had undertaken construction of swimming pool in the said premises. According to the petitioners, when they were undertaking construction, a notice was served on them and the Greater Hyderabad Municipal Corporation (respondent Corporation) had demolished part of the swimming pool. Aggrieved thereby the petitioner filed W.P.No.24321 of 2015 challenging the notice dated 16.07.2015. By order dated 05.08.2015, this Court directed the respondents not to take any coercive steps and further directed the petitioners not to make any further construction. The petitioners also filed photographs in the said writ petition showing the stage of construction of swimming pool. The said writ petition was withdrawn by the petitioners on 21.09.2015. While so, by the impugned proceedings dated 06.08.2015 the petitioners were asked to submit ULC Clearance Certificate from the Revenue Authorities and the Land Use Certificate of the proposed site from HMDA for taking further action. Aggrieved thereby, the petitioners filed this writ petition.

2. The learned counsel for the petitioners submits that there is no requirement to obtain the said certificates and unnecessarily the petitioners are asked to produce the same. He further submits that

under the guise of asking the certificates, the same is treated as an order of rejection and the respondents are taking steps to demolish the swimming pool.

3. The learned Standing Counsel submits that the intimation, impugned in the writ petition, is for production of clearance certificate of ULC and Land Usage Certificate from HMDA and these certificates are necessary for processing the application submitted by the petitioners and no exception can be made to such demand made by the respondent Corporation. He further submits that even though direction was issued by this Court in W.P.No.24321 of 2015 not to undertake further construction, the petitioner undertook further construction of swimming pool. The same having come to the notice of the respondent Corporation, it is taking steps as warranted by law.

4. As seen from the proceedings impugned in this writ petition, the documents mentioned therein are required by the respondent Corporation for processing the application submitted by the petitioners. It cannot be said that respondent Corporation committed grave illegality in asking the petitioners to produce said documents. Be that as it may, it is for the petitioners to appear before the Authority and submit an explanation explaining that the said documents are not required as per law and that the competent authority can not insist the petitioners for production of the said documents.

5. Hence, I do not see any illegality or irregularity in the intimation letter furnished by the respondents. This Court in exercise of power of judicial review under Article 226 of the Constitution of India cannot interfere/interdict the process initiated by the competent Authority while evaluating an application submitted for grant of building permission. Hence, this writ petition is not maintainable

and the same is liable to be dismissed. However, it is open to the petitioners to submit the requisite documents as insisted or file further explanation within a period of three weeks before the respondent Corporation and the respondent Corporation shall consider the same and pass appropriate orders. It is needless to observe that till the matter is considered and appropriate orders are passed, the respondent Corporation shall not take any coercive steps against the petitioners. However, this order does not come in the way of the respondent Corporation inspecting the site of the petitioners and if the respondent-Corporation notices any additional construction made than what was constructed by the time W.P.No.24321 of 2015 was instituted to take such action as warranted by law.

Accordingly, this writ petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

P.NAVEEN RAO,

J

Date: 13.10.2015

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