

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.7145 OF 2015

ORDER:

This petition is filed for a writ of *Mandamus* declaring the endorsement Roc.No.417/G1/2015 dated 16.02.2015 issued by the 3rd respondent, *inter alia* directing petitioner to submit legal heir certificate issued by notary and certificate of family members issued by Tahsildar, Nagari to consider her application for building permission, as illegal, arbitrary and unconstitutional against the provisions of the Andhra Pradesh Municipality Act, 1965 (in brief 'the Act.').

The case of the petitioner is that she is the absolute owner and possessor of an extent of 280 Sq.yards of land equivalent to 235.02 sq.meters situated in Block No.12, Ward No.22 of Sy.No.193, D.No.10-9-212, Adam Colony, Nagari Municipality, Chittoor District. The said property was gifted by her husband under gift settlement deed dated 19.12.2014. The petitioner submitted an application on 07.02.2015 to the 3rd respondent for sanction of commercial building permission. But the 3rd respondent did not sanction the same and returned with the endorsement stating that the petitioner has to submit the legal heir certificate issued by notary and certificate of family members issued by Tahsildar, Nagari. Aggrieved by the same, the present writ petition is filed

Heard the learned counsel for the petitioner, learned Government Pleader for Municipal Administration, appearing for respondent No.1, learned Government Pleader for Revenue, appearing for respondent No.2 and Sri M.D.Saleem, learned Standing Counsel appearing for respondent No.3.

Pursuant to the application dated 16.02.2015 of the petitioner, respondent No.3 has made an endorsement asking her to submit the legal heir certificate issued by notary and certificate of family members issued by Tahsildar, Nagari. The learned Standing Counsel has been brought to the notice of this Court another endorsement dated 19.03.2015 stating because of the objections raised by the public, the

constructions to be made by the petitioner will obstruct road margin and set backs are also not left, the petitioner is required to apply for approval of fresh plan.

When the petitioner herself applied for permission based on a gift deed, the question of production of family members certificate and legal heir certificate by notary does not arise and the same is not referable to any provision of the Act. It is not brought to my notice that under which provision of law, the same is required. If any objections are raised for grant of permission to the petitioner, it is for the respondent-Authorities to consider and dispose of the same as per law.

In view of the same, this writ petition is allowed setting aside the return endorsement dated 16.02.2015. The respondent Municipality shall consider the application of the petitioner, if petitioner has produced necessary documents of title and complied with formalities as envisaged under law and the objections, if any, and pass appropriate orders as per law.

With the above directions and observations, this writ petition is disposed of. No order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

06.04.2015

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