

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1851 OF 2015

ORDER:

The writ petition is filed for a direction to the Chief City Planner, Town Planning Section (HO) GHMC to issue permission and relaxation to the petitioners, as the petitioners surrendered 294.44 Sq.Ys. of land to the GHMC (MCH), free of cost, for road widening purpose.

The case of the petitioners is that they are the absolute owners of the property bearing Municipal No.3-6-369/B/3/8, admeasuring 461 Sq. Ys. of 385.45 Sq. Mtrs., situated at Road No.1, Himayathnagar, Hyderabad, having purchased the same for a valuable sale consideration from its owner Dr.Lanka Sunita Vijay, vide registered sale deed document No.2851/2007. It is also submitted that the petitioners' vendor obtained permission from the Municipal Corporation of Hyderabad for re-construction of house as per permit No.40/78 in File No.369/B/3/8/6/3/83, dated 12.04.1984, and accordingly constructed the house after demolishing the then existing structure. It is further submitted that the Municipal Corporation issued a letter No.134/TPS/RW/C3/MCH/2006, dated 24.12.2006, requesting the owner of the property to handover the 294.44 sq.ys. area for road widening and the previous owner (vendor of the petitioners) surrendered the said property to the Municipal Corporation of Hyderabad, free of cost and opted for the benefit as per the provisions of GO.Ms.No.483, MA, dated 24.08.1998 and GO.Ms.No.279 and U.D., dated 01.04.2008. While so, after purchasing the said property, petitioners applied for permission for demolition of the existing single storied building and to construct sub-cellar, cellar, ground with mezzanine + 3 upper floors, claiming

relaxation in the setback under the provisions of G.O.Ms.No.483, dated 24.08.1998 and GO.Ms.No.279 dated 01.04.2008, as their vendor surrendered 294.44 sq.ys of land to the Municipal Corporation of Hyderabad, free of cost for road widening. But, the Municipal Corporation issued a letter to the petitioner rejecting the permission for demolition of the existing structure and construction of new building, as per the plan submitted by them on 08.02.2008, on the ground that the land belongs to the Government as per the letter of the Revenue Authorities. Aggrieved by the same, the petitioner filed WP.No.31902 of 2010, and this Court by order dated 01.02.2011, directed the respondent Corporation to consider the application of the writ petitioner without treating the property as government land. In pursuance of the said direction of this Court, the petitioner applied for permission on 04.11.2011, but the Municipal Corporation vide letter dated 02.01.2013 asked the petitioner to submit revised plan with stilt floor for parking + 4 upper floors as per rules under GO.Ms.No.168, dated 07.04.2012. Thereafter, the petitioner submitted revised plan on 08.05.2013, along with the soft copy of the proposed plan and one hard copy of revised plan to the MCH Corporation for GHMC approval, but no steps have been taken for grant of permission to the petitioner by the respondents. Though the petitioner surrendered land admeasuring 294.44 sq.ys. to the government for road widening purpose, without claiming any compensation with an intention to avail benefit of FSI/relaxation in construction of the left over area, no action has been taken by the respondents. Aggrieved by the same, present writ petition is filed.

Heard learned counsel for the petitioners.

Learned Standing Counsel for the respondent Corporation produced written instructions stating that the earlier letters of the

petitioners were returned and ultimately the petitioner made an application on 08.05.2013 and the same is being examined as per concessions in setbacks given by the Government in Memo No.4678/M1/2008.

It is unfortunate that though petitioners have submitted application on 08.05.2013 for processing the same, the respondent Corporation has not taken any action till today. Obviously, for the best reason known to them, the respondent Corporation is resorting to such action. The respondent Corporation cannot ask the owners of the building to wait for years together and hamper the progress denying them to construct houses. I am unable to understand why the respondent Corporation took almost 1 ½ years time to process the application of the petitioner. This attitude of the respondent Corporation cannot be appreciated.

In view of the above, the respondent Corporation is directed to process the application dated 08.05.2013, submitted by the petitioner, within a period of four weeks from the date of receipt of a copy of this order and take necessary action for grant of permission according to Law.

Accordingly, the 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

09.02.2015

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