

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.36310 OF 2015

DATED:10-12-2015

Between:

Mala Bhuwalka

... Petitioner

And

State of Telangana
Rep. by its Principal Secretary
Municipal Administration Department
Secretariat Buildings
Saifabad
Hyderabad
and others

... Respondents

COUNSEL FOR THE PETITIONER: Mr. A. Srinath

COUNSEL FOR RESPONDENT NO.1: A.G.P. for Municipal
Administration

(TS)

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed to set aside proceedings No.40329/TPS/GHMC/C16/NZ/2015, dt.29.10.2015, of respondent No.5 whereby he has rejected the application filed by the petitioner for granting building permission on the ground that a civil dispute in respect of the site in question is pending in Civil Court and High Court.

On 06.11.2015, this Court has adjourned the case to enable the learned Standing Counsel for the Greater Hyderabad Municipal Corporation, who has taken notice for respondent Nos.2 to 5, for filing counter affidavit to enlighten this Court as to the provision(s), if any, under the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act') which created a bar on the respondents from granting building permission merely because some litigation is pending with regard to the title over the property. Neither counter affidavit is filed, nor Mr. Chatla Madhu, learned Standing Counsel, who has taken notice for respondent Nos.2 to 5, is present at the hearing.

A perusal of the impugned proceedings shows that the only ground on which the petitioner's application for building permission was rejected was that one Mr. Venkatarami Reddy has filed civil cases in respect of the site for which the petitioner has applied for building permission and they are pending in Civil Court and High Court. Respondent No.5 has failed to give details of the purported cases and their nature in the impugned order. Further, he has also not stated whether any order was passed by the competent Court restraining respondent Nos.2 to 5 from granting building permission. As held by this Court in *Hyderabad Potteries Pvt. Ltd. V. Collector, Hyderabad District*^[1] and *K. Pavan Raj v. Municipal Corporation of Hyderabad*^[2]

the Corporation is concerned only with the *prima facie* title and even if litigation in respect of the property in question is pending before any Court, if the Corporation is satisfied with the *prima facie* title, irrespective of the pendency of such cases, it shall grant building permission, unless competent Court of jurisdiction grants any restraint order, and that the Corporation cannot reject the building permission on the ground of mere pendency of some civil dispute(s).

In this view of the matter, the impugned proceedings are wholly unsustainable and they are accordingly set aside. Respondent No.5 is directed to re-consider the petitioner's application for building permission and grant such permission if he is *prima facie* satisfied with the title of the petitioner and that no order restraining him from granting building permission by a competent Court exists. He shall complete this exercise within one month from the date of receipt of this order and communicate the decision taken to the petitioner.

Subject to the above directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. No.46719 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

10-12-2015

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[\[1\]](#) 2001 (3) ALD 600 = 2001 (3) ALT 200

[\[2\]](#) 2008 (1) ALD 792