

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.31991 of 2015

-
Date: 17.12.2015

Between:

RVS.Chalapathi and 2 others

..

Petitioners

and

The State of Andhra Pradesh
rep. by its Prl.Secretary
Municipal Administration
& Urban Development
Hyderabad and another.

.. Respondents

Counsel for the petitioners:

Mr.J.Prabhakar

**Counsel for respondent No.1:
Administration (AP)**

GP for Municipal

Counsel for respondent No.2:

**Mr.S.Lakshminarayana Reddy,
SC for GHMC**

-
The Court made the following:

-

-

-

Order:

The petitioners, who, evidently, constructed a building in deviation of the sanctioned plan, made an application bearing No.2602/09/II seeking regularization under the Building Penalisation Scheme prevailing at that time. In the present Writ Petition, the grievance of the petitioners is that though a new Scheme *viz.*, Building Regularisation Scheme has been evolved *vide* GO.Ms.No.128, dated 22-05-2015, respondent No.2 has not considered their application filed under the previous Scheme.

In the counter-affidavit filed on behalf of respondent No.2, it is *inter alia* stated that with reference to the petitioners' application, the Commissioner of respondent No.2 has issued a final endorsement *vide* B.P.S.Final Notice, dated 31-12-2012, calling upon the former to comply with certain requirements before seven days from the date of its receipt and that as the petitioners have

failed to comply with the same or given any reply thereto, their application stood rejected.

A reply-affidavit is filed on behalf of the petitioners wherein a specific plea is taken that they have not received the purported final endorsement and that therefore, they could not respond to the same.

At the hearing Mr.S.Lakshminaryana Reddy, learned Standing Counsel for respondent No.2- Greater Visakhapatnam Municipal Corporation, submitted that respondent No.2 has sent a final endorsement through ordinary post; that as the new Scheme for Regularisation has come into force, the previous Scheme stood closed and that therefore, the petitioners' application cannot be considered. He has, however, admitted that the amount paid by the petitioners along with the application for Regularisation under the previous Scheme has not been refunded so far.

In my opinion, having failed to prove that the purported final endorsement was served on the petitioners, the plea taken by respondent No.2 that

the previous Scheme stood closed cannot be accepted, more so, in the absence of any communication issued by respondent No.2 to that effect to the petitioners and in the face of its failure to refund the amount paid by the petitioners while making their applications for Regularisation of the constructions made by them under the previous Scheme. Even if a new Scheme has come into effect, as the petitioners' application has been pending, respondent No.2 is bound to consider and dispose of the same in terms of the previous Scheme. The learned Standing Counsel has also not placed before this Court any provision, statutory or otherwise, laying down that all the pending applications under the previous Scheme stood rejected or that they cannot be considered after the new Scheme has come into operation.

For the above mentioned reasons, the petitioners are permitted to comply with the requirements indicated in the final endorsement issued in December, 2012, by respondent No.2, within three weeks from the date of receipt of this order. Within four weeks thereafter, respondent

No.2 shall consider the same in the light of the Building Penalisation Scheme under GO.Ms.No.901, dated 31-12-2007, and communicate the decision to the petitioners.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.41335 of 2015, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 17th December, 2015
lur