

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

WRIT PETITION No.619 of 2016

07.01.2016

Between:

Abdul Rahaman

.. Petitioner

and

The State of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration and Urban Development Department,
Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.A.Prabhakar Rao

Counsel for respondent No.1: Government Pleader
for Municipal Administration and Urban Development (AP)

Counsel for respondent No.5: Assistant Government Pleader for Revenue
(AP)

Counsel for respondent Nos.2 to 4: --

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to set aside letter *vide* B.A.No.1140/15/G3, dated 05.12.2015, of respondent No.2, whereby it has informed the petitioner that he must obtain clarification from the office of the District Collector for processing his application for grant of building permission in survey No.508/1-A.

The petitioner pleaded that he has purchased land admeasuring 252 sq.yds. in plot No.22 in Door No.508/1 situated at Vasavi Nagar, Guntur District, under a registered sale deed, dated 09.04.2012, from one Devisetty Amarkumar, S/o Karunasagar. The petitioner has traced the title of his predecessors for more than 70 years. He has relied upon the judgment and decree, dated 30.11.1972, in O.S.No.129 of 1967 on the file of Sub Court, Guntur, and pleaded that the claim of the Andhra Pradesh State Wakf Board, which filed the said suit, in respect of lands admeasuring Acs.2.00 of land in survey No.508 and Acs.4.00 in survey No.509, was conclusively rejected and that A.S.No.164 of 1973 filed against the petitioner's predecessors in title was partly allowed by the District Court on 31.10.1977, insofar it relates to item No.1 (Acs.2.00 in survey No.508), that one Chigurupati Sowbhagyamma, defendant No.3 in the aforesaid suit, filed S.A.No.224 of 1978 against the judgment and decree, and that the said Second Appeal was allowed by judgment and decree, dated 18.08.1980. In the above background of the facts, the petitioner assailed the impugned letter/endorsement made by respondent No.2.

This Court, in a catena of judgments, held that while considering an application for grant of building permission, the authority is not concerned with the conclusive title, while it is mainly concerned with lawful possession and *prima facie* title of the party (see

Hyderabad Potteries Private Limited V. Collector, Hyderabad^[1],

District Collector V. N.Krishna Mohan^[2] and **K.Pawan Raj vs.**

Municipal Corporation^[3]). Respondent No.2, being an authority constituted under the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), is bound to act within the parameters of the said statute and it has no power or authority to insist on obtaining clarification from any agency functioning outside the provisions of the Act. In the light of this settled legal position, this Court is of the opinion that respondent No.2 has not acted in a legal and proper manner in directing the petitioner to get clarification from respondent No.5 as a pre-condition for consideration of his application for grant of building permission.

Therefore, the impugned letter/endorsement, dated 05.12.2015, of respondent No.2 is set aside. Respondent Nos.2 to 4 are directed to consider the petitioner's application for building permission, strictly within the parameters of the provisions of the Act, based on the petitioner's lawful possession and *prima facie* title, as may be reflected from the documents that may be produced by him.

The Writ Petition is accordingly allowed to the extent indicated above.

As a sequel to allowing the writ petition, W.P.M.P.No.769 of 2016 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

07th January, 2016

GHN

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- [\[1\]](#) 2001(3) ALT 200
- [\[2\]](#) 2000(3) ALT 225
- [\[3\]](#) 2008 (1) ALD 792