

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.2295 of 2009

ORDER:

Petitioner-Society, which owns vast extent of land, allotted an extent of Acs.8.02 cents of land to respondent No.4 for running a School. Since the allotment was not permitted under the original Byelaws, the Byelaws were suitably amended. After allotment of the said land, respondent No.4 submitted a plan for construction of the school building, to the Society for granting 'No Objection Certificate' and forwarding it to respondent No.1. The same was forwarded to respondent No.1, which approved the building plan. Thereafter, another application was submitted on 08.04.1996 by respondent No.4 to the person-in-charge of the Society for granting 'No Objection Certificate' for constructing additional buildings, and the same was granted on 12.04.1996. On the basis of the said 'No Objection Certificate', appropriate permission was granted by respondent No.1. When the petitioner came to know that another building permission application was submitted by respondent No.4 without intimating to it, the present writ petition was filed challenging the action of respondent Nos.1 to 3 in receiving the building permission application submitted by respondent No.4 for construction of additional buildings in the school premises and processing the same in File No.0295/CSC/TP/0/08, dated 28.02.2008.

The petitioner also states that it submitted a representation, dated 25.01.2009, to the Commissioner, Greater Hyderabad

Municipal Corporation on 27.01.2009 seeking not to grant any building permission to respondent No.4.

This Court by order, dated 10.02.2009, directed respondent Nos.1 to 3 not to release the building permit to respondent No.4 for the purpose of construction of additional buildings in the school premises. Though WVMP No.2215 of 2009 was filed, the same was dismissed on 11.08.2009.

A counter-affidavit was filed on behalf of respondent Nos.1 to 3 stating that initially, respondent No.1 issued a permit on 14.12.1992 for the construction of ground + two upper floors for high school building in the premises bearing No.8-2-293/82/JB/BVB/90/V/1&2 in Survey No.120/403/1, situated at Jubilee Hills, Hyderabad. Pursuant to the above plan, respondent No.4 submitted another plan for construction of ground + two upper floors and the same was approved by respondent No.1 on 02.06.1992. Yet another plan was submitted in 1996 for construction of ground + two upper floors and permission was accorded on 19.06.1999. Respondent No.4 submitted another application on 28.08.2008 along with a plan for construction of multipurpose hall in the ground and first floor in the said premises and the same is pending with respondent No.1. Along with the said plan, respondent No.4 submitted previous sanctioned plans and paid the permit fee of Rs.6,92,485/- and complied with other conditions. Though respondent No.4 complied with the conditions, no building permit was issued for want of title documents and 'No Objection

Certificate' from the petitioner-Society and the application is still pending. In view of the representation, dated 25.01.2009, submitted by the petitioner, permission was not accorded. It is stated that respondent No.1 is a statutory authority and it is bound by the statutory provisions.

The counter-affidavit filed by respondent No.4 states that respondent No.4 is an Associate Member, who was allotted land for construction of building and for running an institution for common benefit of the public. There is no specific provision for obtaining 'No Objection Certificate' from the Society before obtaining permission from respondent No.1. The dispute between the petitioner and respondent No.4 relating to betterment charges is not connected to the present relief sought in the writ petition.

It is clear from the above facts that an application submitted by respondent No.4 for construction of additional buildings in the land allotted by the petitioner-Society is pending consideration before respondent No.1. Respondent No.1 also admitted the receipt of representation from the petitioner on 27.01.2009.

In the circumstances, without expressing any opinion on the merits of the case, this writ petition is disposed of directing respondent No.1 to consider the building permission application submitted by respondent No.4 in accordance with law and pass appropriate orders thereon, within three months from the date of receipt of a copy of this order. It is needless to observe that while considering the building permission application of respondent No.4,

respondent No.1 shall take into consideration the representation submitted by the petitioner on 25.01.2009. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

Dt:06.12.2016

kdl

