

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.11213 of 2016

ORDER:

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Heard Sri T. Surya Satish, learned counsel for the petitioner, and Sri N. Praveen Kumar, learned Standing Counsel for the Tandur Municipality.

The prayer of the petitioner in this case is as under:

“For the reasons stated in the accompanying affidavit it is prayed that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the Respondent No.2 in rejecting the application for construction of the Petitioner dated 04.08.2015 under intimation letter Lr.No. G1/1185/2015 dated 12.08.2015 merely on a objection Petition which is bereft of the material particulars as illegal, arbitrary, violative of the provisions of the Municipality Act, violative of principals of natural justice and violative of Article 14 and 300A of Constitution of India and to pass such other order(s) as may be deemed fit and proper.”

Perusal of the impugned intimation dated 12.08.2015 reflects that it is completely bereft of reasons. The intimation is short to the point of being cryptic and reads as under:

“Vide reference 1st cited you have submitted an application for construction of ground & First floor residential building in P.No.11 in Sy.No.121 of Tandur (v) and the same had rejected vide reference 2nd cited. Vide reference 3rd cited the Tahsildar has given clarification stating that the Sy.No.121 is a private land, vide reference 4th cited you have once again requested to give the building permission.

Vide reference 5th cited, this office has received a complaint stating that the land in Sy.No.121 is under dispute.

Hence your application for construction of residential building in P.No.11 in Sy.No.121 of Tandur is hereby rejected.”

Sri T. Surya Satish, learned counsel, would contend that the litigation in relation to the land in Sy.No.121 has already concluded and it would therefore not be correct to state that the said land is still in dispute.

It appears that the municipal authorities received some complaint in relation to the subject land from some third person and without even giving an opportunity of hearing to the petitioner to put forth its version, the application was rejected. This is not the manner in which the municipal authorities are required to conduct themselves while dealing with an application for construction permission.

On this short ground, the writ petition is allowed setting aside the impugned intimation dated 12.08.2015. The municipal authorities shall give due notice to the petitioner as to the complaint received by them, give it an opportunity of hearing to rebut the contents of the said complaint and take a decision afresh as to whether construction permission can be granted to the petitioner upon its application dated 04.08.2015. This exercise shall be completed expeditiously and in any event, not later than two weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

6th April, 2016
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