

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 10691 OF 2009

ORDER:

The petitioner, who is a power of attorney holder of the original owner, filed the present Writ Petition challenging the endorsement issued by the 2nd respondent on 25-03-2009 demanding 10% of open space cost and drainage and sewerage charges for an amount of Rs.6,49,565/- and Rs.1,38,000/- respectively in order to consider the building application. The main grievance of the petitioner is that the 2nd respondent has no authority to demand 10% of open space cost and drainage and sewerage charges and it cannot withhold the building permission for non-payment of the said amounts.

This Court, by order dated 29-05-2009, granted *interim* direction for releasing the permit for construction of the apartment without insisting on payment of 10% open space cost and drainage and sewerage charges. It appears that pursuant to the said *interim* direction, the building permission was granted and the petitioner constructed the building. Even after seven years, no counter affidavit is filed by the 2nd respondent nor anyone appeared.

In the circumstances, recording the fact of construction of the building pursuant to the *interim* direction, this Writ Petition is closed without deciding the merits of the case but giving liberty to the 2nd respondent to issue a notice to the petitioner or successors in the event of the 2nd respondent finding that it has got authority to collect 10% of open space cost and drainage and sewerage charges and the petitioner is given liberty to submit explanation to the said notice. Without following the said procedure, no amount shall be collected from the petitioner by the 2nd respondent. Pending miscellaneous petitions, if any, in this Writ Petition shall stand dismissed in consequence. No order as to costs.

A.RAMALINGESWARA RAO, J.

Date: 06th December, 2016.
JSK