

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.3591 of 2013

Date :28.12.2016

Between :

Smt Ghousia Begum W/o late Mohd Haneef
New Malakpet, Hyderabad

Petitioner

And

The Govt of A P
Rep by Principal Secretary (MA & UD Dept)
Secretariat, Hyderabad and others

Respondents

The Court made the following:



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ORAL ORDER:

Petitioner applied for building permission for construction of a commercial building consisting of two cellars, ground plus three floors on house bearing No. 16-8-932, New Malakpet, Hyderabad. The building permission application was processed and after Building Committee accepted the application submitted by petitioner, the Town Planning Section of Greater Hyderabad Municipal Corporation communicated letter bearing No. 2723/12/01/2012 dated 4.4.2012 directing the petitioner to remit an amount of Rs.1,55,68,155/-. Challenging the same, this writ petition is filed.

2. According to learned counsel for petitioner, the amount demanded from the petitioner included Impact Fee of Rs.1,31,50,500/- whereas, no such Impact Fee can be collected for the building permission submitted by the petitioner. This Court passed interim direction to process the building permission application subject to petitioner paying 1/3rd of the Impact Fee. Accordingly, petitioner has deposited an amount of Rs. 68,01,155/- by way of Demand Draft bearing No. 0004787 dated 30.8.2013 drawn on ICICI bank, as directed by this Court, however, building permission is not granted.

3. At this stage, petitioner did not intend to pursue the construction of the building as originally intended and seeks to withdraw the building permission application submitted and submitted a representation on 23.1.2016 requesting the Commissioner to permit the petitioner to withdraw the building permission application and to refund the amount deposited by her consequent to interim direction of this Court. Petitioner deposited 1/3rd of the Impact Fee and other amount together amounting to Rs.68,01,155/-. The said amount is not refunded to the petitioner.

4. It is not in dispute that petitioner is no more interested in pursuing the building permission application and to construct the building as originally intended. The grant of building permission and levy of appropriate fee is regulated by A.P. Building Rules, 2012 notified vide G.O. Ms No. 168 Municipal Administration and Urban Development (M) Department dated 7.4.2012. According to Rule 19 along with building permission, the applicant has to pay 2 % of the value of the construction proposed or maximum amount of Rs.10,000/- as initial fee. The balance building permission/ licence fee together with other fee/charges should be levied and collected before the issue of permission/ sanction. In case of rejection of the building application, the initial fee would be forfeited.

5. It is thus clear from the reading of Rule 19 that in case of building permission application is not granted, or for any reason the applicant does not prosecute building permission application, the initial fee amount of Rs.10,000/- is not refundable and is forfeited. It is thus clear that any other amount paid should be refunded to the applicant.

6. In the instant case, petitioner has serious grievance of levy of huge amount towards Impact Fee and an amount of Rs.68,01,155/- was paid pursuant to interim directions of this Court.

7. Once petitioner is not willing to prosecute his building permission application except for the processing fee, no other amount can be detained and applicant is entitled to seek refund of the amount paid. In the instant case, since petitioner is not interested in securing the building permission application, a representation was already submitted to this extent and same thing is reiterated in the affidavit filed in support of WPMP No. 3106 of 2016. There is no good reason for the respondent corporation to refund /return the money.

8. As petitioner is no more interested in prosecuting the building permission application and since so far no building permission is granted or rejected and even in case of rejection only Rs.10,000/- paid as initial fee is only liable to be forfeited, the respondent corporation is directed to refund the amount of Rs. 68,01,155/- paid by the petitioner as expeditiously as possible, at any rate within a period of six weeks from the date of receipt of copy of this order.

9. Accordingly, writ petition is disposed of. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE: 28.12.2016
TVK

P NAVEEN RAO,J



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