

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.23466 of 2016

ORDER:

The petitioner filed this Writ Petition by invoking the provisions under Article 226 of the Constitution of India, seeking to declare the action of the 5th respondent in not regularizing the lay-out of the petitioner in survey No.1043 to an extent of 233.30 sq.yards, situated at Hanamkonda as per existing Master Plan without referring to Draft Master Plan, as illegal and arbitrary, and consequently, direct the respondents to grant building permission without reference to draft master plan by setting aside the intimation dated 18.03.2014 issued by the respondents 2 to 5 dated 18.04.2016.

Heard and perused the material available on record.

Both the counsel agree that the subject matter of the writ petition is covered by orders passed by this Court in several writ petitions including W.P.Nos.37378 of 2014 and 10465 of 2014.

Admittedly, petitioner's application for grant of building permission was rejected by the City Planner, Warangal Municipal Corporation, Warangal (3rd respondent) on the ground that the petitioner did not supply a revised plan as per notified draft Master Plan as per G.O.Ms.No.168 (MA), dated 07.04.2015, as petitioner's property is abutting to 150 feet road, in which Draft Master Plan prescribed in the aforesaid Memo and also it did not give any undertaking to surrender road affected portion. It is not disputed that no final notification is issued and that the Master Plan is still in the draft stage only. Therefore, the Draft Master Plan cannot be said to have come into force.

So following the order, dated 11.4.2014, in W.P.No.10465 of 2014, the Writ Petition is allowed and the respondents are directed to consider the application of the petitioner for making construction in the subject property in accordance with the existing Master Plan and the endorsement vide Roc.No.G1/ 4186/ 2014, BA No.1078/ 13-14, dated 06.03.2014, issued by the respondents is set aside. Within four (4) weeks from the date on which the petitioner resubmits his application for permission, respondents 2 and 3 shall consider the same in accordance with law, including the provisions of the Greater Hyderabad Municipal Corporation Act, 1955, the Rules and Byelaws made thereunder; take a decision thereupon; and communicate the same to the petitioner.

There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

June 16, 2017.
KTL

RAJA ELANGO, J

