

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 45413 of 2016

Date :2.1.2017

Between :

Smt Roshan W/o Bahadur Ali
R/o 8-2-125, Shivajinagar,
Siddipet

Petitioner

And

The State of Telangana
Rep by its Secretary, Municipal Administration,
Secretariat, Hyderabad and another

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner, learned Government Pleader for Municipal Administration and Sri N. Praveen Kumar, learned standing counsel for second respondent municipality and with their consent the writ petition is taken up for disposal at the stage of admission.

2. Petitioner was granted building permission to construct ground plus two upper floors in house bearing No.8-2-125, 8-1-32 to 8-1-37, Siddipet town, Siddipet district. The building permission application was granted on 7.11.2013. In terms of the provisions governing the building permission application in the municipality, applicant should complete the construction in all respects within three years from the date of grant of permission. In the instant case, petitioner did not complete the construction within the time, as required. This writ petition is filed alleging that the respondent municipality is interfering with the construction though building is constructed in accordance with the building permission granted to the petitioner.

3. On instructions, learned standing counsel submits that the time granted for construction lapsed therefore, petitioner cannot make any constructions. According to Section 216 of the A.P. Municipalities Act, 1965 the construction or reconstruction of any building if not completed within the period specified, permission granted would lapse and fresh application ought to be made. He further submits that no application is made within the time specified for extension of time. That even the application seeking extension of time should be made through on-line portal and all the relevant documents including previous approved plan and processing fee has to be made on-line and therefore, the representation of the petitioner dated 27.6.2016 cannot be acted upon.

4. With reference to the objection of the learned standing counsel and provision in Section 216 of the Act, 1965, learned counsel for petitioner would submit that petitioner will submit a fresh application in due compliance of the requirements of the Act and shall also pay requisite fee, but petitioner should not be denied completion of construction, as it would cause great financial loss and suffering to the petitioner.

5. According to the petitioner, an application was made on 27.6.2016 for extension of time and said application was made well before expiry of previous permission granted and therefore it cannot be said that petitioner has not applied for extension of time. However, since, the requirement is to submit an application through on-line portal by due compliance of all the requirements, it cannot be said that a proper application was made.

6. Having regard to peculiar facts of this case, writ petition is disposed of granting liberty to the petitioner to submit an application on-line through web portal along with all the required documents and payment of processing fee in continuation to physical application made on 27.6.2016. The said application, if made, shall be processed and appropriate decision be communicated to the petitioner within three weeks from the date of making such application. Petitioner is permitted to undertake construction, strictly in accordance with building permission already granted. However, no occupancy certificate should be issued to the petitioner and petitioner shall not be permitted to occupy the subject building until building permission application of the petitioner is positively considered and extension permission is granted subject to penalty as leviable. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 2.1.2016
TVK

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