

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.2625 OF 2017

ORDER:

1. This writ petition is filed by the petitioner seeking a direction to respondents Nos.1 and 2 to issue occupancy certificate in respect of residential house situated in Plot No.340, Sy.Nos.33, 34, 34/P, 35/P and 36 to 39, Kakatiya Hills Housing Society (previously known as Ravindra Co-operative Housing Society), Madhapur, Hyderabad.

2. The case of the petitioner is as follows:

The petitioner is the owner of the above plot and he made an application to the respondents on 18.11.2014 for constructing a building. The 2nd respondent rejected his application on 25.11.2014 on the ground that the proposed site is affected under 80 feet wide master plan road as per CDA master plan. Then, the petitioner filed W.P.No.38597 of 2014 for a direction to respondents Nos.1 and 2 to grant building permission without raising any objection on the basis of letter of the 2nd respondent dated 25.11.2014. On the submissions made by the learned Standing Counsel for GHMC in the said writ petition that the 2nd respondent has withdrawn the letter dated 25.11.2014 and that the application of the petitioner would be subjected to scrutiny as per the building rules, this Court dismissed the said writ petition as infructuous. Thereafter, there was no response from GHMC. Then, the petitioner issued a notice dated 30.1.2015 to respondents Nos.1 and 2 stating that by virtue of the deemed permission, he is proceeding with the construction in accordance with the plan. The petitioner was informed through a letter dated 11.2.2015 that his proposal has been forwarded to the Head Office regarding clarification of proposed alignment of road width which is abutting to the proposed site

and therefore, the petitioner should not commence the construction. Thereafter, the petitioner waited for nearly three months. As there was no further communication from respondents Nos.1 and 2, the petitioner proceeded with the construction. The petitioner obtained electricity and water connections. Now, the GHMC has to issue occupancy certificate. The petitioner applied for occupancy certificate on 20.8.2016. But the authorities concerned did not pass any orders. Aggrieved by the same, the petitioner filed W.P.No.30130 of 2016. During the course of hearing of the said writ petition, it was informed that the 2nd respondent issued proceedings dated 4.11.2016 rejecting the application of the petitioner. Hence, the petitioner filed this writ petition.

3. A counter-affidavit was filed on behalf of respondents Nos.1 and 2 stating that the officials of the Corporation inspected the site of the petitioner and recorded deviations and that the petitioner violated the rules in maintaining the set backs in the site, and therefore, his application for occupancy certificate was rejected.

4. When this matter has come up for hearing, the learned Counsel for the petitioner submitted that the 2nd respondent along with the licensed surveyor can measure the set backs in the constructed area of the petitioner after issuing a notice to the petitioner herein and after such survey, the respondents may pass fresh orders.

5. Considering the said submission, this Court is of the view that it is just and proper to direct the 2nd respondent to get the constructed area surveyed by the licensed surveyor and then, pass appropriate orders.

6. Accordingly, the Writ Petition is disposed of directing the 2nd respondent to get the constructed area of the petitioner surveyed by the

licensed surveyor after issuing a notice to him and get a report. On receipt of report of such survey, respondents Nos.1 and 2 are directed to pass appropriate orders. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 24th July, 2017
Nn.



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24/7/2017

Nn.