

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

WRIT PETITION No.4410 OF 2018

ORDER:

Heard counsel for the petitioner, Government Pleader for Municipal Administration for respondent No.1 and Sri N. Praveen Kumar, Standing Counsel for respondent No.3.

2. Petitioner had made an application for building permission in Plot No.2, admeasuring 228 ¼ Square Yards, in Survey Nos.954 and 955 of Block No.32, Ramachandragudem, Miryalaguda Town, Nalgonda District. Petitioner claims that her mother purchased the subject land under a registered sale deed, dt. 19.11.2012, and gifted it to her on 16.12.2017. It is her further case that her mother applied for regularization of the said plot under Land Regularization Scheme and the said plot has been regularized by respondent No.3 by proceedings dt. 04.04.2017. The petitioner contends that she made an application for building permission to respondent No.3 enclosing the plan of proposed construction, but no order has been passed on the said application. On enquiry, she came to know that the said application was kept pending on the ground that civil suit is pending. It is stated that in similar circumstances, this Court, in W.P.No.9035 of 2017, which was disposed of on 15.03.2017, directed respondent Nos.2 and 3 therein to consider the application of the petitioner therein within eight weeks. Hence, the present Writ Petition is filed.

3. Counter affidavit has been filed by respondent No.3 stating that one V. Surender Reddy, an Advocate, had given a legal notice to the Director of Town and Country Planning, Government of Telangana, on 02.05.2017 not to entertain any building permission requests in respect of Survey Nos.954, 955 and 956 of Miryalaguda Village until all the cases pending in the Courts are cleared, and that on the basis of the said letter, respondent No.3 had not taken any action on the petitioner's application for building permission.

4. Applications for building permission are required to be considered by respondent No.3 under Section 215 of the Telangana Municipalities Act (for short, 'the Act'), having regard to the *prima facie* title of the applicant to the property. This responsibility cannot be abdicated by respondent No.3 relying on the letter dt. 20.06.2017, of the Director of Town and Country Planning not to entertain any request for building permission in the said Survey Numbers until all the civil cases pending in the Courts are decided, as requested by the Advocate Sri V. Surender Reddy. Any legal notice issued by an Advocate, of the nature issued by Sri V. Surender Reddy on 02.05.2017, cannot be treated as an order passed by a Court, and basing on that, the Director of Town and Country Planning cannot direct respondent No.3 not to entertain applications for building permission. The Director of Town and Country Planning has no

jurisdiction to give such a direction to respondent No.3, particularly, when according to the petitioner, her plot has already been regularized by respondent No.3 on 04.04.2017 under the Land Regularization Scheme.

5. Therefore, without reference to the letter dated 20.06.2017 of the Director of Town and Country Planning, Government of Telangana, respondent No.3 shall independently consider petitioner's application for building permission under Section 215 of the Act and communicate his decision to the petitioner within four weeks from the date of receipt of a copy of this order. Respondent No.3 shall also pay costs of Rs.1,000/- to the petitioner.

6. With the above direction, the Writ Petition is disposed of.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

M.S.RAMACHANDRA RAO, J

April 23, 2018.
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