

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.8820 of 2018

ORDER:

Heard the learned counsel for the petitioners and Sri Chatla Madhu, learned Standing Counsel for respondent Nos.2 and 3.

2. Petitioners had applied for building permission for construction of ground floor and the same was granted to the petitioners vide proceedings dt.18-04-2017. Petitioners completed the construction and gave intimation on 01-10-2018 to 2nd respondent for completion of construction.

3. Petitioners were waiting to obtain Occupancy Certificate from the 2nd respondent, but 2nd respondent issued impugned order dt.31-01-2018 refusing to furnish Occupancy Certificate citing an entry in TSLR that the subject land is “Abadi” in column No.10, and a further entry as “G” in column No.20 thereof. It is also stated that in column No.23, the TSLR mentioned “Sri Venkateswara Swamivari temple” The 2nd respondent also stated that the title to the property itself is in litigation and W.P.No.43325 of 2017 filed by the petitioner was pending and unless final orders are passed in the said Writ Petition, Occupancy Certificate cannot be issued to the petitioner.

4. It is settled law that entry in TSLR is not a proof of title as held in **Hyderabad Potteries Private Limited v. Collector,**

Hyderabad District & another¹ and merely because there are mutation entries indicating that the land belongs to the Government or that it belongs to a temple, there is no presumption that either the Government or the temple has any title to the land.

5. Having satisfied itself that the petitioners had *prima facie* title and having given permission on 18-04-2017, the 2nd respondent is now estopped from doubting the petitioners' title and refusing to issue Occupancy Certificate to the petitioner.

6. It is not in dispute that the petitioners had approached this Court by filing W.P.No.43325 of 2017 when there was threat of dispossession by the respondent Nos.2 and 3 herein as well as the revenue officials and this Court had suspended the notice dt.09-12-2017 issued under Section 7 of the A.P. Land Encroachment Act, 1905, by the revenue department. It held that the petitioners were in long standing possession and the State had to approach Civil Court in view of the decision of the Supreme Court in **Government of Andhra Pradesh Vs. Thummala Krishna Rao and others**². It restrained the revenue officials and the officials of the GHMC from interfering with the possession and enjoyment of the petitioners of the subject property, pending the said Writ Petition.

7. Merely because the said Writ Petition is pending on the file of this Court, the 2nd respondent cannot refuse to issue Occupancy

¹ 2001(3) ALT 200

² AIR 1982 S.C. 1081

Certificate particularly when the petitioner is willing to handover physical possession of the road affected area by giving a letter dt.22-02-2018 to the Assistant City Planner, GHMC, Secunderabad.

8. In this view of the matter, the Writ Petition is allowed and the respondent Nos.2 and 3 are directed to issue Occupancy Certificate to the petitioners within two weeks from the date of receipt of a copy of this order for the construction made by them pursuant to the building permission granted to them on 18-04-2017. However, grant of such Occupancy Certificate shall be subject to final orders in W.P.No.43325 of 2017. No costs.

9. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 29-03-2018
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