

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 42046 of 2018

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the shortfall intimation letter in File No.3003/W14/2018/1085, dated 12.11.2018 issued by the second respondent, directing the petitioner to obtain latest No Objection Certificate from the Revenue Department not below the rank of Joint Collector and Irrigation Department not below the rank of Executive Engineer, as illegal, improper and incorrect.

2) The averments made in the affidavit filed in support of the writ petition would show that the petitioner claims to be the owner and possessor of the house plot admeasuring 240 square yards in Sy.No.307/2 situated at Mahabubabad Town, by virtue of gift settlement deed dated 08.06.2018 vide document No.4553 of 2018, executed by his father. It is stated that the father of the petitioner purchased the said plot from Bommagani Vijaya, under a registered sale deed dated 20.01.2012 vide document No.513/2012, who inturn purchased the same from Konagiri Radha Krishna, under registered sale deed dated 26.05.2008 vide document No.2557 of 2008. It is stated that after claiming to be possession over

the said land, the petitioner herein is said to have made an application seeking permission for construction of a house in the aforesaid plot and paid the processing fee. He also claims to have enclosed the letter dated 25.04.2013 addressed by the Executive Engineer, Irrigation and Command Area Development, Mahabubabad to the Municipal Commissioner, Mahabubabad, to show that the said house plot does not fall within the FTL Contour of Bandam Cheruvu, Mahabubabad. Thereafter, the impugned proceedings came to be issued, directing the petitioner to produce a fresh No Objection Certificate from the Revenue Department and Irrigation Department. Challenging the same, the present writ petition came to be filed.

3) Sri A.Prabhakar Rao, learned counsel appearing for the petitioner would submit that the letter dated 25.04.2013, written by the Executive Engineer, Irrigation and Command Area Development, Mahabubabad, would show that the plot is not in the FTL Contour of Bhandam Cheruvu. He also relied upon the endorsement dated 13.03.2018 made by the Senior Section Engineer, South Central Railway, to show that the plot is far away from the Railway boundary and that No Objection Certificate is not required. Having regard to the above, he would submit that the authority erred in insisting for No Objection Certificate.

4) On the other hand, the second respondent-Municipality, filed their counter disputing the averments made in the affidavit filed in support of the writ petition. In Para No.6 of the counter, it is stated that the Executive Engineer issued a letter to the Municipality basing on the contour levels of Bhandam Cheruvu, but not in terms of the boundaries of Bandam Cheruvu. It is further stated that the Government issued a Memo, prescribing that No Objection Certificate is required from both the authorities. The report of the Tahsildar, dated 09.06.2014, is placed on record to show that the land in Sy.No.307/ 2 admeasuring 73.92 square yards is a patta land and the remaining land is Government Shikam. The counsel further places on record the material to show that the Municipality has addressed a letter to the District Irrigation Officer, Mahabubabad, dated 10.09.2018 to conduct the field survey and submit factual report regarding the construction of RCC residential ground floor building in Sy.No.307/ 2. Having regard to the above, it is pleaded that the petitioner is not entitled for permission.

5) From the above, it is clear that there is no dispute with regard to ownership of the land, but the only issue that arises for consideration is whether the plot falls within FTL Contour of Bandham Cheruvu. Though in the counter filed by the second respondent, the letter written by the Executive

Engineer, Irrigation Division, Mahabubabad to the Municipality is not disputed but the main grievance of the respondents is that the boundaries of the house site could not be fixed basing on the FTL Contour of Bandham Cheruvu.

6) A perusal of the letter dated 25.04.2013 would show that this piece of land, which is subject matter of dispute in the present writ petition, is not in the FTL Contour of Bandham Cheruvu. The certificate issued by the railway department also shows that the plot is far away from the railway land. Insofar as the report of the Joint Collector is concerned, learned counsel for the petitioner would submit that in view of the order passed by this Court in W.P.No.25832 of 2000 dated 24.11.2005, wherein it has been held that the said land is a patta land, a certificate from the Joint Collector may not be necessary. Having regard to the letter of the Executive Engineer, showing that the plot is beyond the FTL contour of Bandham Cheruvu, it would be just and proper to direct the authorities concerned to consider the application of the petitioner dated 28.06.2018.

7) In view of the observations made earlier, the authorities concerned shall deal with the application of the petitioner dated 28.06.2018, seeking building permission, in accordance with law, at the earliest, taking into consideration the observations made herein as well.

8) Accordingly, the Writ Petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

14.12.2018
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