

HIGH COURT FOR THE STATE OF TELANGANA

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W R I T P E T I T I O N No.6257 of 2019

Between:

1. Valupadasu Raju

... Petitioner

AND

1. The State of Telangana, and 2 others

... Respondents

Date of Judgment pronounced on : 04.04.2019

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

1. Whether Reporters of Local newspapers : Yes / No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes / No
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes / No
Of the Judgment?

CHALLA KODANDA RAM, J

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAMWRIT PETITION No.6257 of 2019

% 04.04.2019

1. Valupadasu Raju

... Petitioner

Versus

\$ 1. The State of Telangana, and 2 others

... Respondents

< GIST:

> HEAD NOTE:

! Counsel for the Petitioner : Mr. Mummaneni Srinivasa Rao

^ Counsel for the Respondents : Ms. Pingali Laxmi,
Standing Counsel for GWMC

? CASES REFERRED:

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6257 of 2019

ORDER:

The petitioner challenges the notice issued vide letter dated 18.03.2019. Vide the impugned notice, the petitioner was asked to comply with certain deficiencies / shortfall noticed in the building plans, so as to process his application for building permission.

Learned counsel for the petitioner submits that the petitioner was initially issued a shortfall letter on 18.01.2019 pointing out only a few deficiencies. Complying with the deficiencies, the petitioner resubmitted his application seeking approval of the building plan. However, once again the authorities issued the impugned shortfall notice pointing out new objections. It is the assertion of the petitioner's counsel that the Commissioner, representing the 2nd respondent, is in fact the competent authority and not the Assistant City Planner, to either reject or approve building permission applications in terms of the Greater Hyderabad Municipal Corporation (GHMC) Act and Rules made thereunder.

On the other hand, learned Standing Counsel for the 2nd respondent- Greater Warangal Municipal Corporation (GWMC), on instructions, submits that the petitioner submitted his application seeking building permission in DPMS System, and the respondent authorities have scrutinised the application and found it to be incomplete. Learned Standing Counsel adverting to the averments in paragraph No.4 of the writ affidavit, submits that certain documents viz., settlement deed of the year 1991, mutation documents in the name of applicant, tax assessment records and ownership documents were called for but the applicant has not submitted them. In response to paragraph

No.5, she submits that the shortfall letter was issued asking to submit detailed explanation, and that no official had demanded money or bribe as alleged by the petitioner. In response to paragraph No.6, she submits that the aspect of payment of Property Tax and obtaining building permission are two different things, and one should specifically obtain building permission even if they are paying property tax. In response to paragraph Nos.7 and 8, she submits that G.O.Ms.No.168 does not specify any minimum area required for obtaining building permission, and one should obtain permission even for a plot of size less than 50 square yards also. Summing up her submissions, the learned counsel submits that the respondent authorities have not stopped the work of the petitioner and, as a matter of fact, the work has not yet commenced.

Having considered the respective submissions, the objection raised by the learned counsel for petitioner, with regard to the competence or otherwise of the authority to consider building permission applications, is liable to be rejected at the threshold for the simple reason that there is neither approval or rejection issued or communicated to the petitioner either on 18.01.2019 or on 18.03.2019. The impugned communication reads "Shortfall Intimation Letter", and the same has been digitally signed by the Assistant City Planner, Greater Warangal Municipal Corporation. It is needless to mention that in terms of Section 106 of the GHMC Act, as applicable to GWMC, various functions can be delegated to various authorities in the hierarchy. What functions are to be exercised by a particular officer or what functions can be delegated within the hierarchical structure of respondent-Corporation, is not the subject matter of this writ petition and hence, the same is not required to be dealt with at this stage in this writ petition. The Assistant City Planner cannot be said to be incompetent to scrutinise the applications and intimate shortfall, if any, to be fulfilled by an applicant. It is only at the stage of either approving or rejecting a building plan, the Commissioner would step in, and one cannot expect the

Commissioner to personally scrutinize the applications and building plans, essentially involving technical aspects of the matter. In those circumstances, the legal objection raised by the petitioner does not stand to scrutiny.

So far as the impugned intimation of shortfall is concerned, it is only an intimation calling upon the petitioner to rectify the deficiencies pointed out, which the petitioner ought to have fulfilled; and hence challenge to shortfall intimation letter does not lie. The allegation of the petitioner that the officers of the respondent Corporation have demanded bribe, and the impugned shortfall intimation is a fallout of his refusal to pay the demanded bribe, is apparently a vague allegation and the same is not required to be taken seriously in any manner, as the petitioner has not chosen to make the alleged officers as parties to this writ petition in their individual capacity.

Therefore, in the facts and circumstances of the case, liberty is granted to the petitioner to make good the shortfall/deficiencies intimated in the impugned shortfall intimation letter, and on such compliance, the respondents shall consider his application for building permission and pass appropriate orders thereon, in accordance with law, within a period of two weeks from reporting compliance by the petitioner. As the petitioner submits that he has already made some construction, it is made clear that the petitioner shall not make any further construction till such time he obtains building permission.

Subject to the above, the writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE CHALLA KODANDA RAM

04th April, 2019

KSM

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM



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