

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 19300 of 2019

ORDER:

In this writ petition, petitioners challenge the Shortfall letter, dated 16.08.2019, refusing to grant building permission in their favour with respect to land admeasuring 1172 square yards in Survey Nos.357, 358 and 359 of Sai Nagar Colony, Kanojiguda, Alwal Village, Malkajgiri Mandal and District.

In the aforesaid Shortfall letter, the following objections were mentioned:

- (1) To submit the ULC clarification from ULC authorities.
- (2) To submit renewed license copy of Structural Engineer.

The petitioners do not have any objection with respect to submission of renewed licence copy of the Structural Engineer and the only objection is with respect to clarification from ULC authorities. The case of the petitioners is that the land over which the construction is proposed to be made has been regularised under Land Regularisation Scheme vide RS/2130/C-16/NZ/GHMC/2012, dated 19.03.2013 as per G.O.Ms.Nos.902, dated 31.12 2007 and in terms of Rule 6 of the Andhra Pradesh Regulation of Unapproved and Illegal Layout Rules, 2007 (for short 'the Rules) framed thereunder, the urban land ceiling clearance certificate is required to be given in case the extent of the land exceeds the ceiling limit and inasmuch as the application for regularisation of the petitioners stands approved under the said G.O., the question of once again

submitting clarification from the ULC authorities is illegal and unauthorised.

Heard learned counsel for the petitioners and learned learned Standing Counsel for respondent Nos.2 to 5.

In the light of the above, Rule 6 of the Rules reads as under:

“6. Compulsory Application for Regulation

It shall be compulsory for all plot owners in unapproved layouts to file an application in the prescribed format for regulation of the plot/layout before the Competent Authority to apply to regulation for plots having registered sale deed executed prior to date of notification of these rules within 60 days from the date of notification of these rules duly enclosing the following documents:

- I. Copy of registered sale deed/title deed executed prior to the date of notification of these rules duly attested by a gazetted officer.
- II. Location Plan.
- III. Detailed layout Plan drawn to scale showing plotted area, open area, area under roads and the plot/plots applied for regulation.
- IV. (a) Urban Land Ceiling Clearance Certificate in case the extent of land exceeds the ceiling limit or
(b) An affidavit in case the extent of land is less than the ceiling limit or
(c) ULC Regularisation order from Government issued under G.O.Ms.Nos.455 and 456 Revenue dated 29.07.2002.....”

It may be noted that as on date, the land over which construction is proposed to be made by the petitioners stands regularised, as such, the question of once again submitting clarification from the ULC authorities does not arise. One another aspect which is required to be addressed in the present writ petition is rejection of the application for building permission on the ground that the petitioners are required to submit renewed licence copy of

the Structural Engineer. It may be noted that it is the municipal authorities, who notify the Structural Engineers for certifying the structural plans. In the very application, a column is provided for the same. In those circumstances, it would be totally meaningless for the building applicant to submit the renewed licence copy of the Structural Engineer irrespective of the fact whether the same is valid or invalid. Therefore, the allegation of the petitioners that the plans are being repeatedly rejected on the same grounds or other for extraneous reason cannot be ruled out. However, the said aspect is required to be considered by respondent No.2 -Commissioner, Greater Hyderabad Municipal Corporation to instruct the authorities to discharge their functions strictly in accordance with law.

In those circumstances, the writ petition is disposed of with a direction to the respondent authorities to process the application of the petitioners without insisting on rectification of shortfalls as mentioned in Shortfall letter, dated 16.08.2019.

Miscellaneous applications, if any pending, shall also stand disposed of. No costs.

CHALLA KODANDA RAM, J

Dt:12.09.2019

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