

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 19949 OF 2019

O R D E R:

In this Writ Petition, the petitioner challenges the shortfall Intimation Letter dated 19.11.2018 *vide* which the respondent Corporation, while returning the Application dated 04.07.2018 of the petitioner seeking building permission, had requested to comply with the deficiencies; *'1) Proposal is construction of the multiplex which is not permissible in the residential land use zone. Hence, change of land use from the residential land use to commercial land use is required; 2) required link documents for document No. 2713 & 2714, the applicant has not submitted proper latest encumbrance market value certificate issued by registration department, applicant has not submitted gift deed for proposed road widening to 150 feet.'*

Learned counsel for the petitioners submits that so far as condition No.2 is concerned, this Court had held repeatedly that the respondent Corporation cannot insist on parting with the property of an individual free of cost merely because there is a proposal to extend the road in accordance with the master plan likely to be notified. So far as the first condition is concerned, it is submitted that the petitioner had approached the government and their Application for conversion of land use from residential to commercial zone is under consideration.

On the other hand, learned Standing Counsel *Smt. Pingali Lakshmi* for the Corporation opposes the Writ Petition. She submits that the question of consideration of the Application of the petitioners would not arise at this stage, as, admittedly, under the zoning regulations, it is impermissible to allow construction of

multiplex complex in residential zone. According to the learned Standing Counsel, consideration of the Application would arise only when the land is converted into commercial zone and it is only at that stage, any necessity for insistence of compliance with the master plan would be considered.

Learned Standing Counsel for the 4th respondent – KUDA Sri M. Ajay Kumar submits that it is only the government which should consider relaxation / exemption to be granted under the zoning regulations.

Having heard the respective submissions, it is to be observed that though this Court in certain cases considered that the requirement of leaving the property in anticipation of the revision of the master plan need not be fulfilled, it is premature in this particular case to consider that issue, as, unless the Application made by the petitioner is in order with respect to the zoning regulations, making an order in the context of the master plan to be revised does not arise. It is for the petitioner to answer the shortfall, at this point of time, particularly condition No.1. Condition No. 2 is, however, left to be agitated as and when arise.

The Writ Petition is accordingly, disposed of. No costs.

The miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

17th September 2019

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