

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 24818 of 2019

ORDER:

In this Writ Petition, petitioner questions shortfall letter dated 16.10.2019 rejecting his application for grant of permission for construction of residential building with respect to plot No.47 covered by Survey No.100 (Part) situated at Kondapur Village, Serilingampally Mandal, Ranga Reddy District.

The shortfall mentioned in the impugned letter is as follows:

“Objections (Document(s) Related):

1. Land Use Certificate issued by HMDA.
2. Other document (if any)

Remarks.

1. The Applicant is directed to submit the shortfalls as Suggested.
2. The applicant has not submitted
 1. Comprehensive Insurance (CAR) Policy for 6 years
 2. Registered Agreement between the owners of the property and the Builder.
3. Latest Encumbrance Certificate issued by Registration Department.

Further, it is to inform that on Sri Abdul Quddus Mulla & Others have submitted representation on dt: 26.02.2018 and 12.04.2018 for Cancellation of LRS approvals for plot Nos.9, 10, 20, 44 & 53 of the draft layout of Raghavendra Shelter in Sy.No.100P of Kondapur Village. The matter was examined and as per the orders of the commissioner, GHMC, this office conducted hearing with the petitioner and the affected parties on dt: 20.08.2018 & 10.09.2018 duly intimating in advance and submitted the report. The outcome of the hearing is not yet concluded and hence it

is not possible to process the present Building Application and as such the proposal may be returned unapproved till the outcome of above said hearing is concluded. Hence, shortfall.”

Learned Standing Counsel for Greater Hyderabad Municipal Corporation appearing for respondent Nos.2 to 4 submits that there appears to be two layouts with respect to the land in Survey No.100, the one is sanctioned by the Gram Panchayat and the other by the Hyderabad Metropolitan Development Authority, and it is on account of such confusion, the application of the petitioner has been rejected.

As can be seen from the impugned shortfall letter, rejection was not on the ground on which the learned Standing Counsel has submitted across the bar.

It is to be noted that the issue involved in this Writ Petition was dealt with by this Court in Writ Petition No.4547 of 2019 and this Court vide order dated 25.04.2019 allowed the same by setting aside the rejection letter impugned therein and by issuing a direction to the second respondent therein to reprocess the application of the petitioner therein for building permission in accordance with law.

It is well settled in the judgment of the Apex Court in **Mahender Singh Gill v. Chief Election Commissioner**¹ that the matter has to be judged basing on the contents of the order impugned, but, not on the supplementary or subsequent affidavits.

In that view of the matter, submission of the learned Standing Counsel cannot be taken into consideration at this stage, as such, the impugned shortfall letter is unsustainable.

Accordingly, this Writ Petition is allowed by setting aside the shortfall letter dated 16.10.2019, and the respondents are directed to reprocess the application of the petitioner in accordance with law. It would be open for the respondents that if for any other valid reason, the application of the petitioner could not be considered, then, the same may be communicated to him so as to enable him to take appropriate steps in accordance with law.

Miscellaneous Petitions, if any pending, shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

13th NOVEMBER, 2019.
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¹ 1978(1) SCC 405