

THE HON'BLE SMT. JUSTICE P.MADHAVI DEVI

W.P. No.1409 of 2022

ORDER:

This writ petition has been filed by the petitioner challenging the rejection order dated 16.11.2021 of the 2nd respondent rejecting the application of the petitioner, for building permission on the ground that the layout is coming under the green/recreation zone as per the draft master plan 2041, which is not approved by the Government in spite of the resolution passed by the Devnoor Grampanchayat and was forwarded to the 2nd respondent.

2. Heard the learned counsel for the petitioner and also the learned Standing Counsel Sri Ajay Kumar appearing for the 2nd respondent.

3. After taking into consideration the submissions made by the learned counsel on either side, it is noticed that similar issues have come up before this Court and this Court has been holding that unless the draft master plan is approved and comes into existence, the applications of the petitioners have to be considered in accordance with the existing master plan. For the purpose of ready reference, the relevant directions passed in W.P. No.6879 of 2021 and batch dated 09.12.2021 are reproduced hereunder:

“Since the facts and the issue involved in all these Writ Petitions are identical, all the Writ Petitions are being taken up together and disposed of by way of this common order. 2. All these Writ Petitions, under Article 226 of the Constitution of India, are filed by the

2

petitioners seeking to declare the Shortfall Intimation Letters, dated 14.12.2020, 07.08.2020, 15.08.2020, 10.09.2020, 09.10.2020, 15.11.2020 and 23.11.2020, respectively, issued by the Assistant City Planner/City Planner, Greater Warangal Municipal Corporation, as illegal and arbitrary and consequently, direct the respondents to grant building permission to the petitioners. 3. Heard the learned counsel for the petitioners; learned Government Pleader for Municipal Administration and Urban Development appearing for respondent No.1; Ms. P. Lakshmi, learned Standing Counsel for Greater Warangal Municipal Corporation, appearing for respondent Nos.2 and 3; Sri M. Ajay Kumar, learned Standing Counsel for Kakatiya Urban Development Authority, appearing for respondent No.4 and perused the record. 4. When the matter is taken up for hearing, learned counsel for the petitioners have submitted that the issue raised in the present Writ Petitions is squarely covered by the order, dated 16.08.2019, passed by this Court in W.P.No.17400 of 2019. 2 5. The respondents filed counters stating that the Kakatiya Urban Development Authority Board has approved the Master Plan 2041 and the same has been submitted to the Government for approval on 10.06.2019 and it is pending. 6. The operative portion of the order dated 16.08.2019, passed by this Court in W.P.No.17400 of 2019, reads as follows: "Following the order dated 11.04.2014 in W.P.No.10465 of 2014, this Writ Petition is also allowed and the respondents are directed to consider the application of the petitioner for making construction in the subject property in accordance with the existing Master Plan and the 'Shortfall Intimation Letter' file No.3006/19882/W34/2019, dated 04.08.2019 issued by the respondents is set aside. Within four weeks from the date on which the petitioner resubmits his application for permission, respondent Nos.2 and 3 shall consider the same in accordance with law, including the provisions of the Greater Hyderabad Municipal Corporation Act, 1955, the Rules and Byelaws made thereunder; take a decision thereupon; and communicate the same to the petitioner. There shall be no order as to costs." 7. The relief claimed and the contentions raised in W.P.No.17400 of 2019 are identical to the reliefs claimed and contentions raised by both sides in the present Writ Petitions. 8. Under these circumstances, in terms of the order, dated 16.08.2019, passed by this Court in W.P.No.17400 of 2019, the present Writ Petitions are allowed and the impugned Shortfall Intimation Letters, dated 14.12.2020, 07.08.2020, 15.08.2020, 10.09.2020, 09.10.2020, 15.11.2020 and 23.11.2020, respectively, issued by the Assistant City Planner/City Planner, Greater Warangal Municipal Corporation, are

3

set aside. The 3 respondent authorities are directed to examine and dispose of the building permission applications of the petitioners in accordance with the existing Master Plan and in terms of the governing regulations, within a period of four(4) weeks from the date of receipt of a copy of this order. Miscellaneous Petitions, if any, pending in these Writ Petitions shall stand closed. There shall be no order as to costs.”

4. Following the above decision of the co-ordinate bench, the 2nd respondent is directed to reconsider the application of the petitioner herein also, in accordance with law, after giving reasonable opportunity of hearing.

Accordingly, this writ petition is disposed of. No order as to costs.

Miscellaneous applications, if any pending, shall stand closed.

JUSTICE P.MADHAVI DEVI

Date: 07.01.2022
LSK