

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

W.P.No.9513 of 2019

ORDER

This Writ Petition is with the following prayer;

“to issue a writ or a direction more particularly in the nature of writ of MANDAMUS to declare the letter No.3/C23/14440/2018 Dt. 09-08-2018 issued by the respondent in refusing to grant building permission to the petitioners in respect of plot Nos.273 and 285, situated in S.No.1007 of Kukatpally Village, Balanagar Mandal, Medchal District, as discriminatory being violative of Article 14 of Constitution of India, arbitrary and unjust”.

2. Learned Senior counsel Mr. Ravi Shankar Jandhyala, representing the learned counsel for the petitioners Mr. P. Venkaiah Naidu, submits that a shortfall notice was issued to the petitioners stating that there are several Court cases pending in Sy.No.1007, Kukatpally Village, Near Allapur area over the title dispute and suggested for shortfall and in view of the same, the proposals and the plans were returned unapproved without any sanction and the petitioners shall not commence any type of construction till the specific sanction is obtained from GHMC. Learned Senior Counsel submits that mere pendency of cases is not a ground and the respondent Corporation does not even mention what cases are pending. He submits that while considering the application seeking building permission, the respondent Corporation can only look at the *prima facie* title and legal possession and apart from that they cannot look

into any other issues. He has also relied on the order passed by this Court in **Hyderabad Potteries Private Limited v. Collector, Hyderabad District and another**¹.

3. Learned Standing Counsel for respondent Nos.2 to 5 Mr. M. Dhananjay Reddy submits that in view of several pending litigations in respect of the said survey number, the respondent Corporation has issued the shortfall notice.

4. In **Hyderabad Potteries' s** case (1 supra) this Court has held that;

“Of course, the Commissioner has to consider the objections, if any, raised for grant of permission. But, an objection raised by a member of the Committee itself would not be enough to reject the application for grant of permission. The Commissioner is required to make pragmatic assessment of the material available on record and decide the question of prima facie title and lawful possession of the applicants. The applications for grant of permission cannot be rejected solely on the basis of TSLR entries. After all, the decision to grant permission itself would not confer any title upon the applicant, nor it would take away the rights of the objector (s), whether the Government or any individual, for asserting their right, title and interest in the land in respect of which permission has been granted and dispute the title in any manner known to law. Similarly, the Commissioner is not entitled to decide any disputed questions of title or the ownership. All that the Commissioner required to do is to find out prima facie title and lawful possession of the applicant and obviously such consideration is confined to only for the purposes of granting permission and nothing more”.

¹ 2001(3) ALD 600

5. This Court is not able to appreciate the contention of the learned Standing Counsel. Even in the order impugned, the respondent Corporation has not mentioned what are the litigations pending in respect of Sy.No.1007, Kukatpally Village, Near Allapur Area. In the light of the law laid down by this Court in **Hyderabad Potteries' s case (1 supra)**, the respondent Corporation shall consider the petitioners' application seeking building permission. Accordingly, the order impugned dated 09-08-2018 is set aside.

6. Accordingly, the Writ Petition is allowed. No order as to costs.

7. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

SMT LALITHA KANNEGANTI, J

13th December, 2022.

sj