
(2008) 09 AP CK 0071

In the Andhra Pradesh High Court

Case No : Writ Petition No. 19235 of 2008

Chaganla Mahendranath and Others

APPELLANT

Vs

Commissioner and Special Officer Town Planning Greater
Hyderabad Municipal Corporation and Others

RESPONDENT

Date of Decision : 05-09-2008

Acts Referred:

Citation : (2008) 5 ALD 724

Hon'ble Judges : B. Seshasayana Reddy, J

Bench : Single Bench

Advocate : Mohd. Moin Ahmed Quadri, for the Appellant; Kalpana Ekbote, for the Respondent

Judgement

B. Seshasayana Reddy, J.—This writ petition has been filed by petitioners who are three in number with a prayer to issue a writ, order or direction more particularly one in the nature of writ of mandamus directing the 1st respondent to receive the building permission application without insisting "No Objection Certificate" from the District Collector, Ranga Reddy District-3rd Respondent.

2. The petitioners claim to be the owner of Ac.6-02 guntas in Survey No. 206/AA(P) and an extent of Ac.0-71/2 Gt. In Survey No. 203(P), situated at Madinaguda, Serilingampally Mandal, Ranga Reddy District. In the year 2003 Government of Andhra Pradesh issued G.O. Ms. No. 337, dated 2.6.2000, whereunder the land in Survey No. 207/AA is designated as "Residential" use zone. The petitioner approached the Office of Greater Hyderabad Municipal Corporation for permission to construct a multi-storied residential apartment. 1st Respondent has orally informed to the petitioners to secure "No Objection Certificate" from the District Collector, Ranga Reddy District. Hence, this writ petition assailing the action of the respondents 1 and 2 in not receiving building permission application and insisting "No Objection Certificate" from the 3rd respondent.

3. When the writ petition came up for admission, Smt. Kalpana Ekbote, learned

Standing Counsel appearing of Greater Hyderabad Municipal Corporation received notice on behalf of respondent Nos. 1 and 2.

Head learned Counsel appearing for the petitioners and learned Standing Counsel appearing for respondents 1 and 2.

4. Learned Counsel appearing for the petitioners submits that the issue involved in this writ petition is no more res-integra, and it is squarely covered by the judgments passed by this Court in District Collector, Hyderabad and another Vs. N. Krishna Mohan and others, and Hyderabad Potteries Private Limited Vs. Collector, Hyderabad District and another, .

5. Learned Standing Counsel appearing on behalf of the respondents 1 and 2 does not contradict the submission of the learned Counsel for the petitioners.

6. In District Collector, Hyderabad v. N. Krishna Mohan (supra), of a Division Bench of this Court held when once the petitioner established their possession and enjoyment of the land in question, the 2nd respondent-MCH should have granted permission in favour of the petitioners for construction of buildings instead of driving them to 1st respondent-Collector to obtain "No Objection Certificate". Obtaining of "No Objection Certificate" arises only when any law presupposes. Mere circular or an executive order informing the petitioners to obtain "No Objection Certificate" before asking for conversion of land etc., has no legal sanctity, because there is no such statutory provision which compels the MCH to insist a person seeking permission to construct a building to obtain and produce "No Objection Certificate" from the Collector.

In view of the settled proposition of law the action of the respondents insisting the petitioners to produce "No Objection Certificate" from the District Collector -3rd respondent cannot be sustained.

7. Accordingly, the writ petition is disposed of at the admission stage, directing the respondents 1 and 2 to receive the building permission application of the petitioners without insisting for "No Objection Certificate". It is made clear that this Court has not expressed anything on the merits of the claim of the petitioners. It is left open for respondents 1 and 2 to process the application of the petitioners if the same is otherwise in order as per the provisions of Hyderabad Municipal Corporation Act, 1955 and Building Bye-laws made therein. No order as to costs.