

(2022) 07 TEL CK 0001
In the Telangana High Court
Case No : Writ Appeal No. 403 Of 2022

Commissioner And 2 Others

APPELLANT

Vs

Syed Iftekhhar Ahmed And 4 Others

RESPONDENT

Date of Decision : 05-07-2022

Acts Referred:

Citation : (2022) 07 TEL CK 0001

Hon'ble Judges : Ujjal Bhuyan, CJ; Surepalli Nanda, J

Bench : Division Bench

Advocate : Pasham Krishna Reddy, D Y L N Charyulu

Final Decision : Dismissed

Judgement

1. Heard Mr. Pasham Krishna Reddy, learned Standing Counsel for Greater Hyderabad Municipal Corporation (GHMC) appearing for the appellants and Mr. D.Y.L.N.Charyulu, learned counsel for the respondents.
2. This intra-court appeal has been preferred against the final order dated 26.04.2022 passed by the learned Single Judge allowing W.P.No.16868 of 2022 filed by the respondents.
3. Appellants before us are GHMC and its officials. Respondents, as the writ petitioners, had filed W.P.No.16868 of 2022 assailing the decision of the appellants contained in letter dated 15.03.2022 to obtain No Objection Certificate (NOC) from the Revenue Department, Government of Telangana, for the purpose of granting construction permission. The writ petition was contested by the appellants by filing counter affidavit.
4. After hearing both the sides, learned Single Judge vide the order dated 26.04.2022 held that the question as to whether GHMC can insist on production of NOC from the Revenue Department is no longer res integra. The same has been decided in the case of Hyderabad Potteries Private Limited v. Collector, Hyderabad District 2001 (3) ALD 600. Learned Single Judge further noted that

building permission was granted to the respondents' land since 1976-79 whereafter several constructions have been made thereon. Respondents are in possession of the constructed tenements since 1970s. In the year 2022, they had made an application before the appellants for developing their houses. It was thereafter that appellants insisted upon furnishing NOC. Learned Single Judge held as follows:

"5. While granting permission, whether the Municipal Corporation can insist for NOC from the Revenue Department or any other Department is no longer res integra as this Court in Hyderabad Potteries's case (2001 (3) ALD 600) has observed as under:

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.

6. In the present case, earlier, building permission was granted to petitioners' land from 1976-79 and they have already made constructions and house numbers were also allotted and they have been paying property taxes, as such they are in possession of the subject houses from 1970s and now, in the year 2022, when they made application for developing their houses, the respondent Corporation has come with an objection basing on the revenue records that the land belongs to the Government. In view of the law laid down by this Court in Hyderabad Potteries's case (2001 (3) ALD 600 supra), which is upheld by the Honourable Supreme Court, the respondents cannot take such objection and they cannot insist for NOC. Hence, the order impugned dated 15-03-2022 is set aside, directing the respondents to process the petitioners' application for building permission in accordance with law without insisting for NOC.

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

5. Upon thorough consideration of all aspects of the matter, we do not find any error or infirmity in the view taken by the learned Single Judge. On the admitted facts as culled out by the learned Single Judge, no case for interference is made

out.

6. Consequently, writ appeal is dismissed.

7. Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.