
(2022) 04 TEL CK 0067
In the Telangana High Court
Case No : Writ Petition No. 16868 Of 2022

Syed Iftekhar Ahmed And 4 Others

APPELLANT

Vs

Commissioner

RESPONDENT

Date of Decision : 26-04-2022

Acts Referred:

Citation : (2022) 04 TEL CK 0067

Hon'ble Judges : Lalitha Kanneganti, J

Bench : Single Bench

Advocate : D Y L N Charyulu, Pasham Krishna Reddy

Final Decision : Allowed

Judgement

1. This writ petition is filed questioning the action of respondents in directing the petitioners to produce NOC from the Revenue Department by making it as one of the shortfall grounds vide letter dated 15.03.2022, as illegal and arbitrary.
2. Heard learned counsel for the petitioners Mr.D.Y.N.L.N.Charyulu and learned Standing Counsel for respondent Nos.1 to 3 Mr. Pasham Krishna Reddy.
3. Learned counsel for the petitioners submits that the petitioners are absolute owners and possessors of the houses bearing Nos.16-2-61/4/A, 16-2-61/6 and 16-2-61/7 in Plot Nos.32,33 and 34 respectively, situated at Akberbagh, Malakpet, Hyderabad, and they have constructed the said houses after obtaining valid permission in the year 1978 and 1979 and house numbers were allotted and they are also paying the property tax from the last 40 years. He submits that when the petitioners wanted to develop the said properties, they approached the respondent Corporation by seeking building permission, but the same was rejected vide letter dated 15.03.2022 directing them to submit NOC from the Revenue Department. Learned counsel further submits that in view of the judgment of this Court in Hyderabad Potteries Private Limited v. Collector, Hyderabad District and another 2001(3) ALD 600, which is upheld by the Honourable Supreme Court, the Municipal Authorities cannot reject the

application seeking building permission on the ground that they should furnish NOC from either the Revenue Department or ULC Department, and hence, the action of the respondents in rejecting the petitioners' application seeking building permission for furnishing NOC is illegal and arbitrary.

4. Learned Standing Counsel for respondent Nos.1 to 3 has filed a counter affidavit. He submits that after receiving the application for building permission, the DDSLR and GHMC have verified the documents and submitted a report stating that it is a Government land, then the building file has been triggered to the Revenue Department, Hyderabad District, to offer remarks for clarification through TS-bPASS online system. Then, the District Collector, Hyderabad District, has offered remarks reporting that the land applied for building permission by petitioners in the subject property falls in T.S.No.3, Block-J Ward-176 of Malakpet Village and as per TSLR in Col.No.10, it is recorded in the name of Kharijkhata Akbarunnisa Begum, in Col.No.20, it is recorded as Blank. He further submits that even as per the entries in the Registration Department, it is a Government land and after receiving such information, they have rejected the petitioners' application seeking building permission as the land belongs to the Government.

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 (1 *supra*) 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 (1 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.

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