HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD (Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF JULY TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO: 10538 OF 2020

Between:

Samrat Saincher Nag, S/o. Late Som Nag, Aged. 20 years, Occ. Student, R/o. H.No. 109, Road No.9, TMC Colony, Mahendrahills, Secunderabad, Telangana state, Represented GPA holder, Syed Hussain All Sajjad S/o Late. Syed Shabbir Ali, Aged about 63 years, Occ. Business R/o. H.No 22-2-700/8, 1st Floor, Panjetan Colony, Darushifa, Hyderabad

...PETITIONER

AND

- 1. The State of Telangana, represented by its Principal Secretary to the Municipal Administration Department, Secretariat Buildings, Hyderabad.
- 2. The Greater Hyderabad Municipal Corporation, represented by its Commissioner, Tankbund, Hyderabad.
- 3. The Deputy Commissioner, Greater Hyderabad Municipal Corporation, Alwal Circle-27, Temple Alwal, Alwal, Secunderabad, Hyderabad-500 010.
- 4. The Assistant City Planner, Town planning Section, Greater Hyderabad Municipal Corporation Alwal Circle-27, Temple Alwal, Alwal, Secunderabad, Hyderabad-500 010.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order or direction more particularly one in the nature of mandamus or any other appropriate writ, declaring the action of the respondents No.2 to 4, in not processing the petitioners building permission application dated. 20-12-2019, and issuing an intimation letter dated. 4/1/2020, saying that, the ownership document is not that of before cut off date, for construction of residential building in his plot of land an extent of 420.00 Sq.Yds or 351.17 sq. Metres forming part of land admeasuring Ac.3.20 gts, ward No.1, and Block No.-6, appedenant to maing building W-1, B-6 Grampanchayath No. 6-43 and out houses bearing Grampanchayath Nos.6-23 to 6-42 and 6-44 to 6-59, situated at Temple Alwal (Alwal Municipality), Malkajgiri Mandal, Ranga Reddy District, under the Respondent No.2 Municipal limits, Layout Regularisation Scheme, 2015, as per G.O.Ms. 151, dated. 2-11-2015, as arbitrary, illegal, null and void, and violative of Principles of natural justice, and violative of Articles 14, 19, 21 and 300-A of the Constitution of India and also contrary to the provisions of Telangana Municipalities Act. Consequently direct the respondents No.2 to 4, to grant building permission for construction of residential building in plot of land in an extent of 420.00 Sq.Yds or 351.17 sq. . Metres forming part of land admeasuring Ac.3.20 gts, ward No.1, and B-6, appurtenant to maing building W-1, B-6 Grampanchayath No. 6-43 and out houses bearing Grampanchayath Nos.6-23 to 6-42 and 6-44 to 6-59, situated at Temple Alwal (Alwal Municipality), Malkajgiri Mandal, Ranga Reddy District, in the limits of the respondent No.2, considering the application of the petitioner which was received on 20-12-2019.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents No.2 to 4, to grant building permission for construction of residential building in plot of land in an extent of 420.00 Sq.Yds or 351.17 sq. Metres forming part of land admeasuring Ac.3.20 gts, ward No.1, and B-6, appermant to main building W¬1, B-6 Grampanchayath No. 6-43 and out houses bearing Grampanchayath Nos.6-23 to 6-42 and 6-44 to 6-59, situated at Temple Aiwal (Aiwal Municipality), Malkajgiri Mandal, Ranga Reddy District, under the resonpdent No.2 Municipal limits, considering the • application of the petitioner which was received on 20-12-2019

Counsel for the Petitioner: SRI K. VENUMADHAV

Counsel for the Respondent No.1: GP FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT

Counsel for the Respondent Nos.2 to 4: SRI CHATLA MADHU, SC FOR GHMC

The Court made the following: ORDER

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.10538 of 2020

ORDER:

Heard learned counsel for the petitioner, and Sri Chatla Madhu, learned Standing Counsel for respondent Municipality.

According to the petitioner, she is the owner of land admeasuring 420 square yards forming part of land admeasuring Ac.3-20 guntas, Ward No.1, and B-6, appurtenant to main building W-1, B-6 Grampanchayat No.6-43 and out houses bearing Gram Panchayath Nos.6-23 to 6-42 and 6-44 to 6-59, situated at Temple Alwal (Alwal Municipality), Malkajgiri Mandal, Ranga Reddy District, under the Municipal limits of the respondents No.2, which she got vide Registered Gift Settlement Deed document No.528 of 2016, dated 3-2-2016. Her grievance is that the respondent authorities are not accepting her application for grant of building permission on the ground that her plot falls in an unapproved layout and hence not recognized within the scheme notified vide G.O.Ms.No.151 dated 2.11.2015.

During the course of arguments, it is brought to the notice of this Court that the Secretary to Government, MA & UD Department, issued Memo No.2252/M1/2017 dated 28.04.2017 in respect of building permission in plots/sites which are not applied under LRS 2015. The operative portion of the Memo reads as under:

"In the reference cited following orders were issued to Metroplitan Commissioner, Hyderabad Metropolitan Development Authority; Commissioner, Greater Hyderabad Municipal Corporation to consider building permissions in the plots / sites which are not applied under LRS Scheme 2015.

Building permission in such plots/sites may be considered by the competent Authority by collecting basic penalisation charges as per LRS – 2015 and 33% compounding fee on the same, plus open space contribution charges (14%) on the present market value of the site/plot applied for Building Permission".

2. Government after careful examination of the matter have extended the above orders to entire State i.e., all the Municipal Corporations / Municipalities / Nagar Panchayats and UDA areas.

3. Therefore, The Director Municipal Administration, Telangana, Hyderabad / Director of Town and Country Planning, Telangana, Hyderabad / Vice Chairman of UDAs / Commissioners of ULBs are requested to take necessary action accordingly as per the above orders."

It is very much evident from the above Memo dated 28.04.2017 that applications for building permission can be considered by competent authorities by collecting 33% compounding fee on the same plus open space contribution charges at 14% on the market value of the plot applied for building permission. The Government issued the said memo in respect of the plots/sites, for which no application under Land Regularisation Scheme was submitted. It is also very much evident from a reading of the above memo that building application of the petitioner deserves consideration in terms of the said Memo dated 28.04.2017 subject to compliance of statutory requirements.

Accordingly, the writ petition is disposed of, directing the Respondent Municipality to accept the application of the petitioner for building permission in terms of the Memo No.2252/M1/2017 dated 28.04.2017 issued by the Secretary to Government, MA & UD Department, and pass appropriate orders, as per law. No costs. Miscellaneous petitions, if any pending, shall stand closed.

SD/-K.AMMAJI ASSISTANT REGISTRAR

SECTION OFFICER

//TRUE COPY//

To,

- 1. The Principal Secretary to the Municipal Administration Department, State of Telangana, Secretariat Buildings, Hyderabad.
- 2. The Commissioner, Greater Hyderabad Municipal Corporation, Tankbund, Hyderabad.
- 3. The Deputy Commissioner, Greater Hyderabad Municipal Corporation, Alwal Circle-27, Temple Alwal, Alwal, Secunderabad, Hyderabad-500 010.
- 4. The Assistant City Planner, Town planning Section, Greater Hyderabad Municipal Corporation Alwal Circle-27, Temple Alwal, Alwal, Secunderabad, Hyderabad-500 010.
- 5. One CC to Sri K. Venumadhav, Advocate [OPUC]
- 6. One CC to Sri Chatla Madhu, SC for GHMC, Advocate [OPUC]
- 7. Two CCs to GP for Municipal Administration and Urban Development, High Court for the State of Telangana. [OUT]
- 8. Two CD Copies

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HIGH COURT

DATED:17/07/2020

ORDER

WP.No.10538 of 2020



DISPOSING OF THE WP WITHOUT COSTS

10 copies Dt 23/7/2020