

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.17187 of 1999

11.11.2005

Between:

G.Jayalakshymi, W/o.G.Rama Rao, Housewife,

Powerpeta, Eluru, West Godavari District

And another

... Petitioners

AND

1. Commissioner, Eluru Municipality, Eluru

and another

... Respondents

ORDER:

The petitioners are residents of Eluru town. They constructed a multi-storied building consisting of ground floor and three upper floors, after obtaining necessary permission from Eluru Municipality (now Corporation). As there were some deviations in the construction of all floors, they made an application on 27.9.1998 under G.O.Ms.No.419, dated 30.7.1998 seeking regularization duly paying a sum of Rs.1,43,832/-. While doing so, they calculated the total extent of unauthorized construction in terms of square feet and multiplied the same with Rs.15/- assuming that the penal rate for regularization is Rs.15/-. However, the respondents issued a notice on 06.6.2000 calling upon the petitioners to pay an amount of Rs.7,31,313/- within three days towards penal rate. The petitioners did not pay. Therefore, the officials of the respondents allegedly went to the petitioners' house on 10.8.2000 and threatened to demolish the illegal construction. Then the petitioners allegedly paid cash in a sum of Rs.1,00,000/- and obtained receipt. Thereafter, they filed the writ petition seeking a direction to the respondents not to demand any further amount.

It is axiomatic that this Court shall not issue a Mandamus, contrary to law or directing the authorities to act contrary to law. If the petitioners were demanded to pay a sum of Rs.7,31,313/- towards penal rate for regularization, as per G.O.Ms.No.419, dated 30.7.1998, the same cannot be faulted. However, it is also incumbent on the first respondent to give details of the calculation to the petitioners to enable them to verify the correctness of such calculation or to enable them to point out any defect in calculation of penal rate for regularization. That is the only

grievance, which is now highlighted before this Court.

With effect from 2005, Eluru Municipality has become Municipal Corporation. Therefore, liberty is given to the petitioners to approach Eluru Municipal Corporation seeking details of calculation. For the said purpose, the petitioners may make representation to the Commissioner, Eluru Municipal Corporation and on such application being made, the Commissioner shall furnish the details of calculation, obtain any representation that may be made by the petitioners and take appropriate action in the matter. Till such steps are taken, there shall be *status quo* as on today.

The writ petition, with the above observations and directions, is disposed of. No costs.

(V.V.S.RAO,J)

November 11, 2005.

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