

HONOURABLE SRI JUSTICE
B. SESHASAYANA REDDY

WRIT PETITION NO.10649 OF 2005

Dated 31-10-2005

Between:

1. Smt. Chanda Devi Jain wife of P. Manohar Lal Jain, aged about 57 years, Occupation: Business, resident of H.No.8-2-674/6/1/A, Road No.13, Banjara Hills, Hyderabad and others.

Petitioners.

And:

1) Hyderabad Urban Development Authority, Paigah Palace, Police Lines, Secunderabad represented by its Secretary and others.

Respondents.

ORDER :

This writ petitioners who are four in number filed this writ petition with a prayer to issue writ order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in not receiving building plan in respect of the property bearing No.1-98/85/10 Madhapur Ward as illegal or arbitrary.

2. Mr. Sanjay Kumar Jain - 4th petitioner has given his sworn affidavit in support of writ petition. The case of the writ petitioner as disclosed in the writ affidavit in brief is as follows:-

The writ petitioners purchased house plot No.10 in survey No.85 of Madhapur Ward under a registered sale deed Number 6974/2003, dated 5-6-2003. The petitioners have approached the 3rd respondent-Municipality for mutation of

their names in the Municipal records. The 3rd respondent-Municipality through its proceedings No.A-1/2043/2003 dated 28-7-2003 made necessary entries in the property tax register maintained by it in favour of the writ petitioners. The writ petitioners engaged the services of an architect and got prepared a plan in accordance with the regulations in force for construction of the building consisting of Ground + 2 floors. The Government, through G.O. Ms. No.21, M.A., dated 20-1-2001, declared an area of 52 sq. kms consisting of only 17 revenue villages and part of the village falling in 3rd respondent Municipality and part of the villages falling in Manikonda Jagir Grampanchayat as Special Developed Area. The writ petitioners approached the 2nd respondent for necessary approval of the building plan. The 2nd respondent authority has refused to receive the building applicant. Hence, this writ petition seeking direction stated supra.

3. The 3rd respondent filed counter affidavit. One C.Ramakrishna Rao has given his sworn affidavit. It is stated in the counter affidavit that as per the provisions of G.O. Ms. No.455 M.A., dated 5-10-2002, the Cyberabad Development Authority is the competent authority to grant permission for construction of the building.

4. I deem it appropriate to refer paragraph 4 of the Counter affidavit of the 3rd respondent and it is thus:

“It is respectfully submitted that in reply to para 3 of the affidavit, I submit that the averments of the petitioners that they have approached the 2nd respondent for necessary approval of the building plan, that the 2nd respondent authorities have refused to receive the said building application from the petitioners on one pretext or the other etc., are all not known to this respondent and therefore, the petitioners are put to strict proof of the said averments. It is submitted that the petitioners themselves have admitted in this paragraph that the 2nd respondent is the competent authority to grant permission to the petitioners. Therefore, this respondent is not necessary party to this writ petition as it has no power to grant permission to the petitioner for making construction in the above said plot. As admitted by the petitioners, as per the provisions G.O. Ms. No.455 MA, dt. 5-10-2002, the Cyberabad Development Authority is the competent authority to grant permission for the construction of building. The petitioner has unnecessarily made this respondent as party to the above writ petition even though it is not proper and necessary

party to the above writ petition as it has got no authority to grant permission to the petitioner to construct the building in the above said plot. Therefore, the above writ petition is neither maintainable in law nor on facts against this respondent and the same is therefore liable to be dismissed against this respondent in limini."

5. Heard the learned counsel for the writ petitioner and the learned Government pleader appearing for the 3rd respondent.

6. Despite the service of notice on the respondents 1 and 2, they did not choose to file any Counter-affidavit opposing the prayer sought for by the writ petitioners.

7. The learned counsel for the writ petitioner submits as per counter-affidavit of the 3rd respondent, it is the 2nd respondent who has been empowered to grant permission for construction of the plan and therefore, a direction is requested to be given to the 2nd respondent to receive the building plan.

8. The learned counsel further submits that the 1st respondent has been directed by the Government to look after the administrative affairs of Cyberabad Development Authority-2nd respondent.

9. In that view of the matter, I deem it appropriate to direct the writ petitioners to submit building application to the respondents 1 and 2 and thereafter, the respondents 1 and 2 have to consider the application in accordance with law within four weeks from the date of receipt of a copy of this order.

10. Accordingly, the writ petition is disposed of. No costs.

Justice B. SESHASAYANA REDDY

Date : 31-10-2005

Dvs

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