

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND NINE

PRESENT
THE HON'BLE MS JUSTICE G.ROHINI
WRIT PETITION NO : 20289 of 2005

Between:

- 1 Sri Muralidhar Kasturi, S/o. K. Buchaiah,
R/o. H.No.30-93/14, Plot No.9,
Survey No.391/A, Near Shivanagar Colony, Kanajiguda, Alwal, RR
District.
- 2 Smt. Padmavathi Kasturi, W/o. Muralidhar Kasturi,
R/o. H.No.30-93/14, Plot No.9,
Survey No.391/A, Near Shivanagar Colony, Kanajiguda, Alwal, RR
District.

..... PETITIONER(S)

AND

- 1 The Commissoenr Alwal Municipality, R.R.District.
- 2 Joint Collector, R.R.District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order, direction or writ, particularly, in the nature of writ of Mandamus directing the respondent No.1 to consider the Application, dt. 31.8.2005, without insisting NOC from Joint Collector or MRO in respect of House Property bearing H.No. 30-93/14, Plot No.9, Survey No.391/A, Near Shivanagar Colony, Kanajiguda, Alwal, RR District.

Counsel for the Petitioners : MR. AKELLA.SREENIVAS RAO

Counsel for the Respondents : SMT. KALPANA EKBOTE

The Court made the following :

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.20289 OF 2005

ORDER :

-

The petitioners herein claim to be the owners and possessors of

house property bearing House No.30-93/14, (Old No.1-30-95/9), Plot No.9, Survey No.391/A, Near Shivanagar Colony, Kanajiguda, Alwal Municipality, R.R. District, having purchased the same under a Registered Sale Deed dated 4.3.2003. Thereafter, the petitioners submitted an application before the 1st respondent – Commissioner of Alwal Municipality - on 31.8.2005 seeking permission for reconstructing the house. They also paid requisite betterment charges as well as the building permission fee by way of demand draft. Aggrieved by the action of the 1st respondent in not considering the petitioner's application, this writ petition has been filed.

A counter-affidavit has been filed by the 1st respondent stating that the petitioners had commenced the construction work without obtaining prior permission as required under Section 209 of the A.P. Municipalities Act, 1965 and therefore a provisional order dated 29.8.2005 was passed under Section 228 (1) & (2) of the A.P. Municipalities Act, 1965. After receiving the said order, the petitioners submitted the application dated 31.8.2005. Having considered the same, the permission as sought by the petitioners was rejected by the 1st respondent vide proceedings dated 12.9.2005 on the ground that the petitioners had already commenced the work in violation of the Building Rules and more over a civil dispute was pending relating to the building in question.

I have heard the learned counsel for both the parties.

As could be seen from the counter-affidavit, the petitioners' application was considered and the permission was refused by proceedings dated 12.9.2005. The present writ petition was filed on the next day i.e., 13.9.2005. The learned counsel for the petitioners across the bar stated that the order of rejection has not been communicated to the petitioners.

Having regard to the fact that an order has already been passed on the application of the petitioners, if aggrieved it is for the petitioners to challenge the said order by working out the appropriate remedy as available under law.

Accordingly, the Writ Petition is disposed of with a direction to the

1st respondent to communicate the order dated 12.9.2005 to the petitioners herein under proper acknowledgment within four weeks from the date of receipt of this order. Thereafter, it is open to the petitioners to challenge the same if they so desire. No costs.

G. ROHINI, J.

Dt. 27.02.2009

gbs

-