

RAJASTHAN HIGH COURT

Pink City Apartment Pvt. Ltd.

Vs.

State of Rajasthan, (Rajasthan)

Civil Writ Petn. No. 1371 of 2003
(Gyan Sudha Misra, J.)

25.03.2003

ORDER

Gyan Sudha Misra, J.

1. The petitioner has challenged the letter dated 7-2- 2003 issued by the Nagar Nigam, Jaipur indicating that the plan submitted by him for sanctioning the construction of a high-rise building could not be approved and the plan could not be passed because the height of the building exceeds 27.30 meters which is against the decision of the State Government as indicated in the letter dated 24-9-2002 issued by the Secretary, Urban Development and Local Self Department vide Annex. 9, that high-rise building could not be permitted to be raised by anyone including the builder. The counsel for the respondent-Jaipur Nagar Nigam Mr. Shyam Arya had thereafter submitted that Nagar Nigam is left with no option than to reject the building plan of the petitioner as it is bound by the instructions of the Government.

2. The first question in this regard which arises is whether the *Jaipur Nagar Nigam* can be held to be bound by the instructions of the Government, but it is not necessary to enter into this controversy as it transpires after perusal of the letter of the Secretary, Urban Development and Local Self Department that it has not passed any order putting a blanket ban on the high-rise buildings. All that has been said in the letter dated 24th September, 2002 as contained in Annexure-9 addressed to the Chief Executive Officer, Jaipur Nagar Nigam is that all plans for high-rise building complexes in C-Scheme and Civil Lines received after 14-6-2002 may be approved, if they comply with the rules and bye-laws and all applications for approval of the High-

Rise Building Complexes received prior to 14-6-2002 may also be considered under the relevant rules as also bye-laws and if the maps are in consonance with the rules, the same be released. Mr. Shyam Arya has not come out with any argument as to what is the reason and in what manner the building plan of the petitioner is contrary to the rules and regulations and has merely argued that it cannot approve the plan for High-Rise Complexes against the instruction of the Government. However, it has also been submitted that the plan of the petitioner is still under consideration of the *Jaipur Nagar Nigam* and it has not been rejected as yet.

3. In that view of the matter the plea raised on behalf of the *Jaipur Nagar Nigam* that it cannot sanction plan for high-rise building in the wake of the instruction of the Government, does not appear to be correct at all as indicated in the letter dated 24th September, 2002 which has merely said that it can sanction the building plans of high-rise building in C-Scheme and Civil Lines area, provided it is in conformity with the bye-laws and the rules and regulations. The *Jaipur Nagar Nigam*, therefore, is under a legal obligation to sanction the building plan of the petitioner as per the relevant rules and bye-laws and if it finds that the building plan of the petitioner is up to the mark, it goes without saying that it has to approve of the plan. However, if the opinion of the *Jaipur Nagar Nigam* is otherwise and it feels that the building plan of the petitioner is not in conformity with the rules and bye-laws, the *Jaipur Nagar Nigam* shall specify the objections regarding the map submitted by the petitioner identifying how the building plan of the petitioner is not in conformity with the bye-laws and the rules. The contention of the counsel for the Jaipur Nagar Nigam Mr. Shyam Arya that it has not sanctioned the plan because there is a blanket ban on the high-rise building, is absolutely without any basis which is borne out from the letter of the Secretary to the Urban Development and Local Self Department as contained in Annexure-9 already discussed hereinbefore.

4. The writ petition, therefore, stands disposed of with a direction to the *Jaipur Nagar Nigam* to consider the building plan of the petitioner and approve or reject it in accordance with law expeditiously but not later than a period of one month from the date of receipt of this order.

Order accordingly.