

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.37791 of 2015

Date:20.11.2015

Between:

Vimala Devi,

W/o Late Ramchander

and another.

..... Petitioners

And:

The State of Telangana, repled., by its

Principal Secretary, Municipal Administration

& Urban Development Department,

Hyderabad and two others.

.....Respondents

Counsel for the Petitioners: Mr. A.Sudershan Reddy

For Mr. G.Madhusudhan Reddy

Counsel for Respondent No.1: AGP for Municipal Admn. (TS)

The Court made the following:

ORDER:

The petitioners, who are the mother and son, respectively, filed this Writ Petition feeling aggrieved by notices, vide No. /UC/Cir-12/TPS/GHMC/2015, dated 03.11.2015 and No. /Cir-12/TPS/WZ/GHMC/2015, 12.11.2015, of respondent No.3, whereby he has initiated steps for removal of the building comprising Stilt + five upper floors in Premises bearing Nos.2-56/D/213/9A and 2-56/D/213/9B in Survey No.11/27 of Khanamet Village, Serilingampally Mandal, Ranga Reddy District, on the allegation that the same was constructed without obtaining permission.

At the outset, it needs to be observed that the plea raised by the petitioners in paragraph-5 of the affidavit, filed in support of the Writ Petition, that they have constructed the residential house in the year 2002 by obtaining all necessary permissions is admitted to be incorrect by Mr. A.Sudershan Reddy, learned senior counsel appearing for the petitioners. That, this plea of the petitioners is false, is evident from their own representation, dated 09.11.2015, stated to have been made to respondent No.3 in response to notice, 03.11.2015, issued under Sections-452(1) and 461(1) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'). The relevant portion of the said representation is reproduced hereinbelow:

“Further, we submit that we are prepared to make necessary payments for regularization as per the government norms on par with adjacent buildings and also Ayyappa Society buildings since most of the buildings in the vicinity are constructed unauthorizedly and we are one of them.”

Learned senior counsel for the petitioners candidly admitted that the petitioners are one among many who have constructed buildings without obtaining permission. He has, however, pointed out that when no action has been taken against the buildings illegally constructed by others, there is no justification for the respondents to single out the petitioners.

I am afraid this contention of the learned senior counsel cannot be countenanced because no citizen can claim any right based on negative equality.

It is indeed a matter of anguish that huge buildings are being constructed either without obtaining permission or in utter violation of the sanctioned plan, as a result of which, the concept of planned development is given a complete go-by by putting the society to grave inconvenience and hardship.

The petitioners cannot plead that if the State is not taking action against other similarly situated persons, they should also be let-off though, admittedly, they have constructed a multi-storied building without permission.

Be that as it may, a small elbow room, which appears to be available to the petitioners, in this connection, is that respondent No.3 has not considered the purported representation, dated 09.11.2015, sent by them. In order, dated 12.11.2015, passed by respondent No.3, it is stated that the petitioners have not submitted reply to notice, dated 15.10.2015. Mr. Sampath Prabhakar Reddy, learned Standing Counsel for the Greater Hyderabad Municipal Corporation, on instructions, submitted that though the said representation, dated 09.11.2015, was received in the Tappal Section of the office of respondent No.3, the same was not brought to the notice of respondent No.3 till 15.11.2015, as a result of which, he had no occasion to refer to the representation, dated 09.11.2015, submitted by the petitioners. He has, however, submitted that since a final order under Section-636 of the Act has not been passed so far, respondent No.3 will consider the representation submitted by the petitioners before passing such order.

In the light of the above submissions of the learned Standing Counsel, the Writ Petition is disposed of with the direction to respondent No.3 to consider the representation of the petitioners made on 09.11.2015 before passing a final order under Section-636 of the Act.

As a sequel to disposed of the Writ Petition, W.P.M.P.No.48606 of 2015 shall stand disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

20th November, 2015

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