

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.23974 of 2014

-
07.12.2015

Between:

Bojja Tata Rao

.. Petitioner

and

The Greater Visakhapatnam Municipal Corporation, Visakhapatnam and
others

.. Respondents

Counsel for the petitioner: Mr.K.Chidambaram

Counsel for respondent Nos.1 and 2: Mr.S.Lakshminarayana Reddy,
standing counsel for the Greater Visakhapatnam Municipal Corporation
(GVMC)

Counsel for respondent No.3: Mr.K.S.Murthy

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The Court made the following:

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ORDER:

This writ petition is filed by the petitioner, who is in occupation of the entire first floor of the building, a portion of which was purchased by respondent No.3, feeling aggrieved by the notice in Rc.No.006691/2014/ACP-3, dated 12.08.2014, of respondent No.2 issued in purported exercise of his power under Section 456 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') for stopping further activities in the said premises in order to demolish the same on the ground that the same has the potential of causing danger to the lives of the people using the said building as well as general public on account of its dilapidated condition.

The petitioner averred that the original building was constructed in the year 1965 and the first floor was laid in 2003. It is the plea of respondent No.3 that the ground floor was constructed in 1940s, though the first floor was laid in 2003. The petitioner has challenged the impugned notice mainly on the ground that based on the opinion obtained by respondent No.2 from a private Engineer, the impugned notice has been issued.

In my opinion, before exercising the power under Section 456 of the Act, the competent authority must be thoroughly satisfied that the condition of the building does not permit its continued existence. Without such satisfaction, any order that may be passed may likely to cause serious prejudice to the interests of the petitioner, who has purchased a part of the ground floor and is carrying on business on the entire first floor.

At the hearing, on the suggestion made by this Court, the learned counsel for both the parties agreed that the issue may be referred to

one of the Professors of Andhra University having specialization in Structural Engineering, who shall submit report, and based on such report, respondent No.2 will take an appropriate decision.

In the light of the consensus reached between the learned counsel for both the parties as above, the impugned notice in Rc.No.006691/2014/ACP-3, dated 12.08.2014, is set aside. Respondent No.2 is directed to refer the issue to any Professor of the Andhra University having specialization in Structural Engineering.

The expert shall inspect the building in the presence of both the parties i.e., the petitioner and respondent No.3, and submit his report, which shall be communicated to both the parties. After receipt of such report, respondent No.2 shall issue notice to both the parties, hold an enquiry, and thereafter pass a speaking order and communicate the same in writing to both the parties. He shall complete this exercise within a period of two months from the date of receipt of a copy of this order. Needless to observe that further action shall depend upon the decision on the report to be taken by respondent No.2.

The Writ Petition is accordingly allowed.

As a sequel to allowing the Writ Petition, W.P.M.P.No.30023 of 2014 and W.V.M.P.No.2699 of 2014 shall stand disposed of.

C.V.NAGARJUNA REDDY, J

07th December, 2015
GHN

