

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.34269 OF 2011 & 7519 of 2012

COMMON O R D E R :

WP.No.34269 of 2011:

This petition is filed for a writ of *Mandamus* declaring the action of the respondents 2 and 3 in not taking action on the petitioner's representation dated 30.11.2011 and legal notice dated 03.12.2011, against the 4th respondents who is proceeding with the construction activities in petitioner's plot bearing D.No.6-1-2L/1, Chenna Reddy Colony, Tirupati, Chittoor District, as illegal and arbitrary and for a direction to the respondents 2 and 3 not to allow the 4th respondent to proceed with the construction.

WP.No.7519 of 2012

This petition is filed for a writ of *Mandamus* declaring the action of the respondent in issuing notice dated 24.01.2012 under Sections 452(1) & (2), 461 and 636 of the Hyderabad Municipal Corporation Act, 1955 as illegal and arbitrary and for a consequential direction to the respondent not to demolish the existing constructions made by the petitioner, pursuant to the permission sanctioned in the proceedings dated 23.06.2010.

Since the subject matter of the writ petition is one and the same, both the writ petitions can be disposed of with a common order.

The case of the petitioner in WP.No.34269 of 2011 is that he has given representation dated 30.11.2011 to the 2nd respondent and legal notice dated 03.12.2011, against the respondent No.4

who is proceeding with the construction activity without following due procedure and causing much inconvenience to the petitioner. As no action has been taken on the aforesaid representation made by the petitioner he filed the present writ petition.

The respondent Corporation filed counter affidavit stating that the 4th respondent has applied permission for proposed construction of residential building for ground and first floor and the same is approved by the Municipal Corporation; that the respondent Municipal Corporation has identified the un-authorised construction made by the 4th respondent in second and third floors without prior permission from the Corporation, for which it has issued a notice dated 24.01.2012 under Sections 452(1) & (2), 461 and 636 of the Hyderabad Municipal Corporation Act, 1955 asking the petitioner to submit explanation within seven days as to why the Corporation shall not demolish the un-authorised construction.

Aggrieved by the action of the respondent Corporation in issuing notice dated 24.01.2012 under Section 452(1) & (2), 461 and 636 of the Hyderabad Municipal Corporation Act, 1955, the 4th respondent in WP.No.34269/2011 filed WP.No.7519 of 2012 stating that the deviations are minor in nature and they are liable to be regularised.

Though the petitioner in WP.No.34269/2011 alleged that no action has been taken by the respondents Corporation on his representation, the respondent Corporation in the counter states that notice under Section 452(1) & (2), 461 and 636 of the Hyderabad Municipal Corporation Act, 1955 (*for short 'the Act'*), was issued to the 4th respondent on 24.01.2012 asking the petitioner to submit explanation within seven days as to why the

unauthorised constructions shall not be removed by the respondent Corporation. It is also stated by the respondent Corporation that because of the interim order granted by this Court in WP.No.7519 of 2012 further action could not be taken. Though in the counter it is stated that action has been initiated under Section 636 of the Act, it is only show cause notice and it is also the case of the 4th respondent in WP.No.34269/2011 who is the writ petitioner in WP.No.7519/2012 that he has already submitted explanation to the show cause notice dated 24.01.2012 on 02.02.2012. Though it is stated action has been initiated under Section 636 of the Act, no proceedings are filed with regard to the same.

In view of the above, the respondent Corporation is directed to consider the explanation of the writ petitioner in WP.No.7519/2012 who is respondent No.4 in WP.No.34269/2011 and take further action in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

With the above direction both the writ petitions are disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

15.07.2015

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