

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.2394 OF 2015

ORDER

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This writ petition is filed seeking writ of mandamus declaring the Notice No.U.C.No.1/B.A.No.12817/2008/ACP-III dated 08.01.2015, issued by the 3rd respondent, as illegal and arbitrary and for a consequential direction to set aside the same.

The case of the petitioners is that they are the absolute owners of property to an extent of 108.33 sq.yards in Sy.No.159, Block No.8, Maharanipeta, Visakhapatnam having purchased the same through a registered sale deed dated 05.02.1996. When they have made an application on 19.12.2008 for construction of G + 2 floors, the 1st respondent sanctioned approval for construction of Ground + 1st floor only. Subsequently, after completion of the construction of G+1st floor, they have made another application on 23.12.2010 for construction of 2nd floor. But the respondents have not considered the said application. The petitioners have completed the construction of 2nd floor. Since then, petitioners are making representations to the respondents for regularising the construction of 2nd floor. It is also submitted the petitioners have been paying the municipal taxes from time to time without delay. While so, the petitioners received a notice on 08.01.2015 under Section 636 of HMC Act, 1955, asking the petitioners to remove the unauthorised construction within 24 hours, failing which the same will be removed by the GVMC and the expenses there of will be recovered from them.

Heard both sides.

Sri S.Lakshmi Narayana Reddy, learned Standing Counsel for respondents submits that the 2nd respondent already served a notice under Section 452 (2) of HMC Act to the petitioners before passing the impugned order. As such, action has been initiated under Section 636 of H.M.C.Act. Therefore, there is no infirmity in the impugned notice.

Learned counsel for the petitioners states that petitioners have not received any such notice under Section 452 (2) of the Act and further submits that petitioners are willing to file an application under Section 455-A of HMC Act by paying necessary fee within a week.

In view of the submission made by the learned counsel for the petitioners, the petitioners are permitted to make an application to the 2nd respondent under Section 455-A of HMC Act within a period of one week from today and on receipt of such application, the 2nd respondent may consider the same and pass appropriate orders thereon. Till then, *status quo* obtaining as on today shall be maintained. If the petitioners does not choose to file an application within the stipulated time referred to above, it is open for the respondent authorities to proceed further in accordance with law.

Accordingly, Writ petition is disposed of. No order as to costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 06.02.2015
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