

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WRIT PETITION Nos.9149 & 23174 of 2015

W.P.No.9149 of 2015

Between:

Gunturu Ramakrishna,
S/o G.Surya Prakash,
Flat No.602, Block-D, 5th Floor,
CASA Rouge, Kondapur Village,
Serilingampally Mandal,
Rangareddy District.

.. Petitioner

And

The State of Telangana,
Rep.by Principal Secretary (Municipal Administration),
Secretariat Buildings,
Hyderabad & 6 others.

.. Respondents

W.P.No.23174 of 2015

Between:

M/s SHL Ventures,
Flat No.102, Block 'F' Ground Floor,
CASA Rouge, Kondapur village,
Serilingampally Mandal,
Rangareddy District,
Rep.by its partner Mrs.E.Padmaja,
W/o Bhaskar Rao,
Plot No.1086, Rd.No.55, Jubilee Hills,
Hyderabad.

.. Petitioner

And

The Greater Hyderabad Municipal Corporation,
Rep. by its Commissioner,
Tank Bund Road, Hyderabad & 2 others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 03.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

- | | | |
|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

-

-

-

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.9149 & 23174 of 2015

-

COMMON ORDER:

Heard Sri V.Ramachander Goud, learned counsel for petitioner in W.P.No.23174 of 2015, Sri V.Roopesh Kumar Reddy, learned counsel for the petitioner in W.P.No.9149 of 2015, and Sri Sampath Prabhakar Reddy, learned Standing Counsel for the Greater Hyderabad Municipal Corporation and with their consent, the writ petitions are taken up for disposal at the stage of admission. For the sake of convenience the parties are referred to as reflected in W.P.No.9149 of 2015.

2. Seventh respondent claims to be a builder and obtained sanction for construction of a multi-storied building, consisting of two cellars, Ground and seven upper floors in Plot Nos.82 to 93 in Sy.Nos.26, 26/A, 27 to 31, 32 (P) of Kothaguda village and Sy.Nos.30 to 35 of Kondapur village, Serilingampally mandal, Rangareddy District. Petitioner claims to have constructed the building in accordance with the plans sanctioned by the Municipal Corporation. While so, by notice dated 09.02.2015, seventh respondent was asked to submit explanation as to why action should not be taken for unauthorized construction of indoor games hall in level-II Cellar and banquet hall in level-I Cellar and swimming pool in tot lot area which are against to the sanctioned plan. The said notice was caused in exercise of the power conferred under Sections 452 (1) and 461(1) of the Greater Hyderabad Municipal Corporation Act, 1955 (for brevity, 'the Act'). A further notice was issued to the seventh respondent on 24.02.2015 under Section 452 (1) of the Act alleging that no explanation was filed by the seventh respondent on the said notice. The seventh respondent claims that initially petitioner submitted an explanation dated 27.02.2015 stating that W.P.No.30489 of 2014 is pending on the file of this Court and, therefore, no action can be taken as it would amount to *sub judice* and on 23.07.2015 he filed a detailed explanation. Even before orders are passed, W.P.No.23174 of 2015 is filed challenging the said notice.

3. In the meantime the owner of Flat No.603, Block-D of the fifth floor and Flat No.602, Block-F of the fifth floor in the residential complex, which is now named as 'Casa Rouge', made complaints to the respondent-Corporation of the illegal constructions made by the developer in two cellars and other illegal constructions made. Alleging that no action was taken on the two complaints filed by the petitioner, he earlier filed W.P.No.30489 of 2014 and the same is disposed of by a separate order as having become infructuous. This Writ Petition is filed alleging that the respondent-corporation has not taken any action against the fifth respondent even though notices were already issued. The petitioner in W.P.No.23174 of 2015 is the seventh respondent in W.P.No.9149 of 2015.

4. Learned counsel for the petitioner in W.P.No.9149 of 2015 contends that the respondent-Corporation has gone through the motion notices issued and only as a formality the said notices were issued but the illegal constructions were not stopped and no immediate steps were taken by the seventh respondent to remove the said illegal constructions and if the illegal activities go on in the complex it would greatly hamper the health and safety of the residents in the apartment buildings and grave prejudice would be caused to the petitioner. Learned counsel further submits that initially a No Objection Certificate was granted by the District Fire Authorities but having noticed that there are several deviations and many illegal activities are going on, hence notices were issued on 18.05.2015 directing the seventh respondent to ensure and rectify the deficiencies pointed out in the said notice to protect the life and safety of the occupants of the building. Learned counsel contends that the illegal action of the respondent authorities may result in serious health hazard.

5. Learned counsel for the seventh respondent made extensive submissions regarding the validity of the notices issued. He contends that the builder has not violated the building permission granted to him, there is no disobedience of any of the orders and no deviations are made. He, therefore, submits that certain false complaints are made and without looking into the genuineness of the complaints, impugned notices were issued only to harass and humiliate the seventh respondent. It is the case of the seventh

respondent that fire safety measures have been taken and the District Fire Authorities have inspected the building in question and initiated action and there are no deviations in the sanctioned plan granted to him. This is a matter for the Fire Safety Authorities to consider and take a decision.

6. Learned Standing Counsel would submit that as the seventh respondent made illegal constructions, notices were issued and appropriate action would be taken as warranted by law considering the detailed explanation submitted by the seventh respondent on 23.07.2015.

7. The notice issued by the Municipal Corporation is in exercise of the power vested in them under Sections 452 (1) and 461 (1) of the Act. Whenever a complaint is made and some illegalities were found it is permissible to issue notices calling upon the erred builder to explain and, if necessary, to rectify the illegalities pointed out. Hence, it cannot be said that the impugned notices are vitiated on the ground of lack of jurisdiction and competence. When rival contentions are made and when the issue is yet to be finally considered and appropriate orders are passed by a competent authority, even before final orders are passed, the Writ Petitions cannot be entertained. Hence, Writ Petition by seventh respondent at this stage, is not maintainable and hence, the Writ Petition fails.

8. However, having regard to the rival contentions made in these two Writ Petitions and in view of the detailed explanation submitted by the seventh respondent on 23.07.2015, both the Writ Petitions are disposed of directing the second respondent to consider the said explanation of the seventh respondent dated 23.07.2015 and pass appropriate orders as warranted by law. Having regard to the grievance agitated by the petitioner, I am of the opinion that, in the interest of justice, the petitioner as well as the seventh respondent be given opportunity of personal hearing by the Deputy Commissioner, Circle-12 on a date fixed in advance and after duly considering the rival contentions and objections, the Deputy Commissioner shall pass appropriate orders as warranted by law. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. Learned counsel for the seventh respondent seeks permission

of the Court to make a fresh explanation along with the relevant records. Having regard to the same, permission is granted. Such a fresh explanation along with detailed enclosures be filed within one week from today. Miscellaneous petitions, if any, pending in these Writ Petitions shall stand closed. There shall be no order as to costs.

P.NAVEEN RAO, J

03rd August, 2015.

Note:

*Furnish C.C. of the order
within three days.*

B/o

Tsy