

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.P. Nos. 18533 of 2014 and 3428 OF 2015

COMMON ORDER :

These two Writ Petitions are being disposed of by this common order in view of the common question of law involved in both the cases.

2. W.P.No.18533 of 2014 is filed questioning the action of the respondents 1 to 3 in not taking any action against illegal construction made by the unofficial respondents.

3. Heard the learned counsel for petitioners and the learned Standing Counsel for respondents-GHMC in both the cases.

4. Learned Standing Counsel for the respondent-Corporation produced a copy of Building Permit Order dated 02.08.2014 issued to the unofficial respondents 10 and 11 in W.P.No.3428 of 2015. Aggrieved by the same, the writ petitioner in W.P.No.18533 of 2014 filed W.P.No.3428 of 2015.

5. Smt. A.Deepthi, learned Standing Counsel for respondent Corporation has produced a copy of order in W.P.No.12258 of 2014 dated 02.09.2014 and contended that power of the Commissioner, GHMC under Sections 428 and 429 of Greater Hyderabad Municipal Corporation Act, 1955 cannot be extended to decide the title and possession of the parties. She would further contend that the petitioner has also filed suit against unofficial respondents, but no orders are granted in the same. As such, this Court cannot decide the question of title and possession of the parties by exercising the power of judicial review under Article 226 of the Constitution of India.

Learned Standing Counsel has placed her reliance on the judgment in W.P.No.12258 of 2014 dated 02.09.2014, wherein it is observed as follows:

“6.Admittedly, the objection of the petitioner dated 09.04.2014 is still pending before the Dy. Commissioner, GHMC,Kapra Circle, Kushaiguda. The pleadings of both the parties raise complicated questions of

fact and law in regard to their claims for title and possession. In my opinion, these complicated issues cannot be dealt by the Commissioner exercising power under Sections 428 and 429 of the Greater Hyderabad Municipal Corporation Act, 1955. If the petitioner has any claim as to the property in respect of which the permission has been sought by the respondent No.3 for construction, the petitioner is at liberty to approach the competent civil Court for adjudication of his right, title and interest in the said property and seek appropriate relief from the Civil Court.”

The facts in the aforesaid case are identical to the facts in the present case on hand. The complicated questions of title cannot be dealt by the Commissioner-GHMC exercising power under Sections 428 and 429 of the Greater Hyderabad Municipal Corporation Act, 1955.

Therefore, I am of the opinion that ratio laid down in the aforesaid judgment is squarely applicable to the facts and circumstances of the present case on hand.

For the reasons alike in the aforesaid order, I do not see any merit in these writ petitions and same are dismissed accordingly. However, if the petitioner files any suit, the trial Court shall decide the same uninfluenced by any of the observations made in these writ petitions.

There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in these writ petitions, shall stand dismissed.

A.RAJASHEKER REDDY, J

25.02.2015.
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