

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

WP.No.21681 of 2012

Between:

Mr.Syed Akthar and another

... Petitioners/Appellant (s)

and

Greater Hyderabad Municipal Corporation,

Rep. by its Commissioner, Hyderabad and another.

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... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 28.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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

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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.21681 OF 2012

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the 2nd respondent in issuing the impugned order dated 13.07.2012, under Section 452(2) of the HMC Act, 1955 to the 2nd petitioner to remove the ACC shed constructed in P.No.273 and 274 in Sy.No.52, situated at Gatchibowly, as illegal and arbitrary and consequently to set

aside the impugned order.

The case of the petitioners is that the 1st petitioner is the absolute owner and possessor of Plot No.273 in Sy.No.52, admeasuring 999 Sq.Ys., situated at Gachibowli village, Serilingampally Mandal, R.R.District, having purchased the same under a registered sale deed dated 11.01.2008 from Mohammed Zaheeruddin, vide document No.250 of 2008. The vendor of the first petitioner purchased the same under a registered sale deed dated 25.07.1990 from Miss.Neelima, who in turn purchased the same from M/s.Kashtopa Corporation under a registered sale deed dated 30.04.1987. It is submitted that subsequent to purchase, the 1st petitioner leased out the said property to the second petitioner to run the business of selling and buying of second hand cars and also for carrying out denting and painting works by raising temporary sheds covered with ACC sheets. While so, since there is leakage in the shed, the 2nd petitioner replaced the ACC sheets with new one and raised ACC shed which is temporary in nature. Thereafter, on 16.07.2012, the 2nd respondent came to the subject property along with demolition squad and served the impugned order dated 13.07.2012 passed under Section 452(2) of HMC Act, 1955, without issuing any prior notice, asking the petitioner to show cause as to why the construction of ACC shed made by the petitioner should not be removed and to remove the said construction otherwise, action will be initiated as per Section 636 of HMC Act. Aggrieved by the same present writ petition is filed.

Heard both sides.

The ground of the petitioners is that no notice was issued to the petitioners before issuing impugned proceedings by the respondent Corporation. But, in the counter it is stated that notice dated 24.07.2013 is issued prior to the impugned proceedings and that as no explanation

is filed by the petitioners to the notice dated 24.07.2013, present impugned order was issued. Though, in the counter it is stated that notice dated 24.07.2013 was served on the petitioners prior to issuance of impugned order, no acknowledgments are filed.

In view of the above facts and circumstances, treating the impugned proceedings as notice the petitioner shall file explanation within six weeks from today and thereafter the 2nd respondent Corporation shall consider the same and pass appropriate orders within a period of two weeks thereafter. Till then, *Status quo*, obtaining as on today shall be maintained by both the parties. If the petitioners fail to file any explanation within six weeks from today, it is open for the respondent Corporation to take appropriate action as per law.

With the above direction, the writ petition is 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

28.07.2015
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