

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.8842 OF 2009

ORDER

The case of the petitioner is that he has applied for building permission in respect of house bearing No.20-4-235/1/A at Khilwat, Himmatpura, Hyderabad constructed in an extent of 298 sq.yards in the year 2006. Initially the petitioner was granted permission for construction of ground and first floor. Thereafter he constructed third and fourth floors and applied for regularization under the scheme of "Penalization of Unauthorised constructed building/building construction in deviation of sanction plan" and paid an amount of Rs,75,000/-. The respondent authorities after receiving the application, issued acknowledgment on 12.07.2008. While so, on 25.04.2009, the respondent authorities without any notice came to the petitioner's house and threatened to demolish the structures in the 3rd and 4th floors. Aggrieved by the same, the present writ petition is filed.

Counter is filed by the respondents admitting that the petitioner has made application for regularisation vide application No.BPS/1362/C5/SZ/08 and also obtained permission for G+ 1st floor and partly 2nd floor vide file No.235/1/4/20/06 vide permit No.135/35 dated 16.02.2006. It is also stated that petitioner has made constructions in deviation of the sanctioned plan. Further, it is stated that the site under reference falls in Heritage Precinct No.10 as per G.O.Ms.No.4 MA dated 02.01.2003 and the site in question falls in Charminar Area within 30.00 mtrs from the Puncmohalla Palace and the petitioner had made constructions taller than 10.00 mtrs, Height 15 mtrs which is not permissible in the Heritage Precinct No.10. The respondents further state that before taking further action under due process of law and before taking decision against he BPS file, as per the guidelines of HCC No.11137/HCC/Policy/Pig/HUDA/99, dated 15.05.2000, as per G.O.Ms.No.4 MA dated 02.01.2003, the petitioner

approached this Court by filing the present writ petition.

Learned counsel for the petitioner submits that when the petitioner's application for regularisation is pending, the respondent authorities cannot demolish the structures of the building belonging to the petitioner.

On the other hand, the learned Standing counsel for respondents submits that the respondent-Corporation has no power to regularise the constructions made by the petitioner and the appropriate authority is Heritage Conservation Committee.

Though petitioner made application for regularisation of the unauthorised constructions in the year 2008, the respondent Corporation in spite of passing orders on the same kept the file pending with them. Even in the counter, they just say that the petitioner has approached this Court before taking any decision on the application made by the petitioner. If the respondent corporation has no power to regularise the unauthorised constructions, they would have returned the application asking the petitioner to approach the concerned authority or if the constructions made does not fall within the purview of the scheme, they should have rejected the same. Instead of doing so, the respondents have kept the matter in cold storage for the last six years. Though the petitioner's application is of the year 2008, the counter is filed by the respondents in the year 2015 without any clarity as to whether they have passed any order on the BPS application or not. This attitude of the respondent Corporation is not appreciated.

Since the petitioner's application for building regularisation filed on 12.07.2008 is pending, the respondent Corporation is directed either to return the application, if it is not competent to deal with it or pass appropriate orders according to law within a period of four (4) weeks from the date of receipt of copy of this order. Till then, *status quo* obtaining as on today, shall be maintained by both the parties. If the application is returned, it is open for the petitioner to file the same

before the appropriate authority.

Accordingly, the writ petition is disposed of. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 19.08.2015
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