

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.2191 of 2015

M.Narasimha Reddy

... Petitioner

Vs.

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

... Respondents

ORDER:

Petitioner filed this writ petition seeking to declare the action of the respondents in issuing the impugned notice No.371/B/32/ACP/C10/GHMC/2015 dated 02.02.2015 under Section 636 of the Hyderabad Municipal Corporation Act, 1955 received by the petitioner on 03.02.2015 at about 1:00 P.M. preceded by a show cause notice issued under Section 452(1) of the Act without giving sufficient time to the petitioner to furnish reply to the show cause notice as illegal, arbitrary and contrary to the provisions contained in Section 455-A of the Act and consequently direct the respondents not to demolish the structures constructed by the petitioner ie., third and fourth floor over premises bearing H.No.8-4-371/B/32, plot No.24, Saradhi Co-operative Housing Society, Yousufguda, Hyderabad.

It is the case of the petitioner that he is the owner and possessor of premises bearing No.8-4-371/B/32, Plot No.24, situated at Saradhi Co-operative Housing Society, Yousufguda, Hyderabad. Initially, he obtained building permission for construction of Ground+First+Second Floor in File No.69916, TP-10/2012, Permit No.29137/DC/CZ/C10/2013, dated 31.10.2013 and

constructed the same without any deviation with regard to set-backs.

It is further submitted that the petitioner intend to construct third and fourth floors over and above the G+2 constructions and approached the office of the second respondent and enquired about making a revised plan in that regard. But the petitioner informed that it might take considerable time to get the plan sanctioned. The petitioner states that he is having certain funds for construction purpose and if the same were kept idle, it would be utilized for some other purpose. Consequently, with a fond hope to obtain necessary permission after laying the slabs, the petitioner started construction of third and fourth floors and completed the same, on observing that in his locality most of the buildings were constructed without prior permission and after construction they obtained necessary permission. The second respondent issued notice purported to be under Section 452(1) of the HMC Act, 1955 in Notice No.371/B/32/ACP/C10/GHMC/2015 dated 22.01.2015, which was received on 23.1.2015 stating that the petitioner made illegal constructions. The petitioner belongs to rival political party and he approached the second respondent and he was instructed to make an application in terms of Section 455-A of Greater Hyderabad Municipal Corporation Act, 1955 seeking regularisation of third and fourth floors made over G+2 of the property in question. Petitioner preferred the same with necessary documents and demand

draft of Rs.10,000/- dated 02.02.2015. When the petitioner approached the second and third respondents on 03.02.2015 along with reply to the show cause notice dated 22.01.2015 along with application prepared in terms of Section 455-A of the Act, the second and third respondents refused to receive his reply saying that the first respondent has issued general instructions to all the circles of Greater Hyderabad Municipal Corporation to the effect that no fresh application for building permission shall be received or processed until instructed or further intimation from the first respondent. On 02.02.2015 the second and third respondents got served the impugned notice to the petitioner under Section 636 of the Act. In the said notice, the respondents have given 24 hours time to remove the illegal constructions, failing which the same will be removed departmentally. The petitioner also stated that he has sent the petition for regularisation and also by speed post on 03.02.2015 as the respondents 2 and 3 refused to receive the same. Still the respondents are trying to take action as per the impugned proceedings.

Heard the learned counsel for the petitioner and the learned Standing Counsel for GHMC.

Learned counsel for the respondent on instructions submits that the application made by the petitioner under Section 455-A of the Act is not in accordance with the form prescribed in the Act and it is made only after Section 452 notice is issued. Without replying to the same, the petitioner

send the reply as well as petition for regularisation, which is not in prescribed proforma, on 03.02.2015. He also stated that respondent authorities have not received the same. Since the petitioner has averred that he has send the registered post on 03.02.2015 and it is for the third respondent to consider the application filed under Section 455-A of the Act. As per the respondents' counsel, the application filed is not in proper proforma. Petitioner can file an application in proper form as per the regulations and provisions of the Act and third respondent shall consider the same in accordance with law. The petitioner has to submit necessary application to the third respondent within two weeks from today and the third respondent shall consider the same in accordance with law. Until his application is disposed of, *Status quo* obtaining as on today shall be maintained. However, petitioner shall not make any further constructions.

Accordingly, the writ petition is disposed of. No costs. Miscellaneous petitions, pending if any, in this writ petition shall stand closed.

A.RAJASHEKER REDDY,J

4th February, 2015.

Note: Issue CC in two days.

B/o

PNV