

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 29451 of 2015

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ORDER :

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This writ petition is filed seeking writ of *mandamus* declaring the action of the respondent for demolishing or interfering in the construction in open plot in Sy.No.81, admeasuring 220 sq.yds, situated at Raidurga Panmaktha Village, Serilingampally Mandal as illegal and arbitrary.

2. It is the case of the petitioners that they are owners and in possession of open plot in Sy.No.81, admeasuring 220 sq.yds, situated at Raidurg Panmaktha village, Serilingampally (M). it is stated that the petitioner made application under Section 428 of HMC Act on 24.01.2015 along with plan to the municipal authorities, for construction of building in the subject. Thereafter, the respondent issued letter dated 03.02.2015 calling upon the petitioners to produce link documents and photos. Though it is not mandatory to produce link documents under the provisions of Section 429 of the Act, for granting of building permission, petitioners submitted the same on 28.04.2015.

However, the respondent authorities had not intimated about the approval or disapproval of the same within 30 days as contemplated under Section 437 of the HMC Act. After waiting till June, 2015, the petitioners have issued a notice dated 01.07.2015 to the respondent for exercising deemed sanction under Section 437 of the Act and commenced construction on 04.07.2015. Thereafter, the officials of the respondent visited the site but did not raise any objection. The petitioners have completed the construction of ground and first floors.

3. While so, the respondents have issued notice dated 02.09.2015 under Section 452 (1) and 461(1) having notice No.110/CIR-XI/TPS/GHMC/2015, dated 01.09.2015 to the petitioners alleging unauthorized excavation of cellar and unauthorized construction and

called upon them to submit reply within 7 days and also appear before the respondent on 07.09.2015. The petitioners gave reply on 07.09.2015 denying the allegations in the notice. Though the 2nd respondent informed the petitioners that they will consider the reply of the petitioners, the officials of the respondent authority along with labourers came to the premises on 08.09.2015 and tried to demolish the construction. Aggrieved by the same, the present writ petition is filed.

4. Heard Sri Muralinarayan Bung, learned counsel for the petitioners and Sri Sampath Prabhakar Reddy, learned Standing Counsel for the respondents.

5. Sri Sampath Prabhakar Reddy, learned Standing Counsel, on instructions submits that after the petitioners submitted explanation on 07.09.2015 in pursuant to impugned notice dated 01.09.2015, the officials of the respondents had not visited the site of the petitioners and only after considering the explanation of the petitioners to the impugned show-cause notice dated 01.09.2015, action would be initiated.

Recording the submission of the learned Standing Counsel, the 2nd respondent is directed to consider the explanation of the petitioners dated 07.09.2015 in pursuant to show-cause notice dated 01.09.2015 issued by the respondents under Sections 452 (1) & 461 (1) of the HMC Act, in accordance with law. Till then, there shall be stay of demolition. If the 2nd respondent is not satisfied with the explanation of the petitioners to the impugned show-cause notice, it is open for the 2nd respondent to take action in accordance with law.

With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous applications, if any pending in this Writ Petition, shall stand dismissed.

09.09.2015.
Note: Issue CC tomorrow.
B/o.KVS

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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W.P. No.29451 OF 2015

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Date: 09-09-2015

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