

**THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

**WRIT PETITION No.3550 of 2015**

-

Between:

1. Theegala Narimani and others.

PETITIONERS

AND

1. The State of Andhra Pradesh, rep. by its Principal Secretary, M.A  
& U.D, Secretariat, Hyderabad, and others.

RESPONDENTS

**ORDER:**

This writ petition is filed seeking to declare the notice dated 24.01.2015 issued by the 2<sup>nd</sup> respondent-Corporation under Section 636 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), as arbitrary and illegal.

The 1<sup>st</sup> petitioner stated to be the owner of the building bearing D.No.9-333/9, Gopalapatnam. He entered into registered lease deed with the 2<sup>nd</sup> petitioner on 25.02.2010 for a period of 12 years with specified terms and conditions. The 2<sup>nd</sup> petitioner is running a clinic in the ground floor. A pharmacy is being run by the 3<sup>rd</sup> petitioner for the last six years. While so the 3<sup>rd</sup> respondent-Association herein filed a civil suit O.S.No.1435 of 2014 on the file of the Senior Civil Judge, Visakhapatnam seeking injunction against the petitioners from parking their vehicles against causing obstruction for ingress and egress. He also filed I.A.No.572 of 2014, which was dismissed on 2.12.2014. The 3<sup>rd</sup> respondent filed W.P.No.38929 of 2014 against the 2<sup>nd</sup> respondent and the petitioners herein, and the same is still pending.

The 2<sup>nd</sup> respondent issued notice dated 19.12.2014 under Section 452 of the Act calling upon the petitioner to restore the building in accordance with the sanctioned plan by opening the stilt floor for parking and also close the medical shop in the ground floor within 7 days. The petitioner submitted explanation dated 13.01.2013 denying the contents of the notice stating that they have shifted the medical shop from the stilt area to ground floor. Thereafter the 2<sup>nd</sup> respondent issued the impugned notice dated 24.01.2015 under Section 636 of the Act asking the petitioners to remove the shutter and close the medical shop in the ground floor within 24 hours. It is the grievance of

the petitioners that though there is neither shutter nor pharmacy in the stilt floor and the same is within the premises of the clinic in the ground floor and the 2<sup>nd</sup> respondent with the influence of the 3<sup>rd</sup> respondent without verifying the factual aspect, issued the notice. Hence the present writ petition.

Heard learned counsel for the petitioners, learned Government Pleader for Municipal Administration for the 1<sup>st</sup> respondent and Sri S. Lakshminarayana Reddy, learned Standing Counsel for the 2<sup>nd</sup> respondent.

Learned counsel for the petitioners submits that the petitioners have filed an application for conversion of the building permission from residential purpose to non-residential purpose, and an enquiry has been conducted and the permission is going to be issued very soon.

Sri S. Lakshminarayana Reddy, Learned Standing Counsel submits that the petitioners obtained building permission for residential purposes and the building is in the residential locality. But the petitioners are using the building other than residential purposes. He also submits that no such application for conversion is received by the Corporation.

The petitioners have obtained permission for residential purposes and the same is not denied or disputed by the respondents. The only ground urged by the petitioners is that they have applied for conversion of the building permission from residential purpose to non-residential purpose. It is also their case that the respondent-corporation is collecting the electricity consumption charges and tax treating the building as commercial purpose and hence the respondent authorities cannot initiate action under Section 636 of the Act.

Admittedly, in the entire affidavit there is no mention that when the petitioners have filed application for conversion of the building from residential purpose to non-residential purpose and enquiry has been conducted. Since the permission was granted for residential purpose the respondent authorities have issued show cause notice and after

giving appropriate opportunity the impugned order has been passed. In view of the same, I do not see any infirmity in the impugned notice issued by the respondent-Corporation. If the respondent authorities grant any conversion permission the notice will not come in the way of the petitioners. As long as no permission is granted, the petitioners cannot use the building other than the residential purposes.

The writ petition is accordingly dismissed. No order as to costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

---

**A. RAJASHEKER REDDY, J.**

9<sup>th</sup> March, 2015  
Js.