

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

**MONDAY, THE SEVENTH DAY OF SEPTEMBER TWO
THOUSAND AND FIFTEEN**

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Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION Nos.28028 & 28068 of 2015

Between:

Pulipati Prasad, S/o. P. Narasimha Rao,
Aged about 48 years, Occ: Busainess,
R.o.H.No.3-9-76/1, Guttala Bazar,
Zaheerpura, Khammam Town,
Khammam District.

.. Petitioner

AND

The State of Telangana,
Rep. by its Secretary,
Municipal Administration & Urban
Development Department,
Telangana Secretariat Buildings,
Hyderabad & another

.. Respondents

The Court made the following:

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COMMON ORDER:

The petitioner is same in both the writ petitions. With the consent of the learned counsel for the petitioner and the learned Standing Counsel for the 2nd respondent Municipal Corporation, the writ petitions are disposed of at the admission stage.

2. In the two adjacent properties, the petitioner/his father obtained construction permission for construction of stilt plus ground plus three floors and permission was granted. However, the petitioner constructed cellar plus stilt plus ground plus four upper floors. Thus, there was an additional construction by way of cellar and one additional upper floor. Alleging that the petitioner has violated the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act') and building rules, on 19.08.2015 notices under Sections 452(1) and 461(1) of the Act were issued calling upon the petitioner to show cause why action should not be taken for removal of deviation portion and unauthorized construction made. Challenging these notices, these writ petitions are filed.

3. According to the learned counsel for the petitioner, it is true that the petitioner has violated the building permission granted, but on account of the provision contained in Section 455AA of the Act, the petitioner applied for regularization of the unauthorized construction made on 15.09.2014 and such

application is still pending consideration of the 2nd respondent Corporation and, therefore, the question of taking penal action against the petitioner does not arise even before the application for regularization is considered and appropriate orders are passed. He, therefore, contends that the issuance of the show cause notice is *per se* illegal and liable to be set aside.

4. On instructions, learned Standing Counsel submits that even though the original permission granted was for stilt plus ground plus three floors, the petitioner constructed additionally cellar and one upper floor and utilizing the stilt for commercial purpose. Learned Standing Counsel submits that as per the building rules and permission granted by the 2nd respondent Municipal Corporation, the stilt has to be used for vehicle parking only. Learned Standing Counsel further submits that the application submitted for regularization on 15.09.2014 was not acted upon since it was not enclosed with a copy of the building sanctioned plan and a copy of the application for regularization of unauthorized structures. Learned Standing Counsel, therefore, submits that it is deemed that the application for regularization is rejected, more so, when notices are issued under Sections 452(1) & 461(1) of the Act.

5. Having regard to the fact that the building regularization application is pending consideration with the 2nd respondent Municipal Corporation, the Writ Petitions are disposed of with the following directions:

Since no orders are passed on the application submitted by the petitioner for regularization and unauthorized/illegal

constructions made and the 2nd respondent Municipal Corporation is of the opinion that the said application is not meeting the requirements as it did not contain the relevant documents, liberty is granted to the 2nd respondent Municipal Corporation to cause notice on the petitioner of the deficiencies pointed out as well as the notice under Section 452(2) of the Act by indicating the date within which an explanation is required to be submitted and/or furnishing all the relevant documents. On submission of the information, a date may be fixed for granting of personal hearing and after considering the explanation as well as the relevant documents, submitted by the petitioner, appropriate orders, as warranted by law, may be passed and communicated to the petitioner. Until the decision is taken as directed above, the 2nd respondent Municipal Corporation shall not take any coercive steps against the petitioner.

There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 7th September, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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