

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.4924 OF 2015

ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the 2nd respondent in issuing the impugned notice dated 16.02.2015 to stop the construction forthwith, as illegal and arbitrary and consequently to set aside the same.

The case of the petitioners is that they have purchased an existing house constructed in an extent of 190 sq.ys. for a valuable consideration under a registered sale deed. As the structure existing in the plot is not sufficient, they want to construct first floor on the said structure and also around the existing structure. Accordingly, the petitioners have submitted the plan by paying necessary fee on 13.01.2015 to the 2nd respondent Corporation. But the 2nd respondent has neither been rejected nor approved the plan submitted by the petitioners till today and also did not call any further information or issue remarks on the plan submitted. The petitioners further state that it is the statutory obligation on the part of the 2nd respondent either to reject or to approve the applications submitted for approval, within 30 days. Since there is no response till 12.02.2015, the petitioners commenced the construction in the ground floor after 12.02.2015, under deeming provisions of Sec.437 of the HMC Act. But, the 2nd respondent issued impugned notice dated 16.02.2015 under Sec.452(1) & 461(1) of the HMC Act, 1955, stating that the petitioners have commenced the construction in the ground floor upto slab level, without obtaining prior permission as required under the HMC Act. Aggrieved by the same, present writ petition is filed.

Heard learned counsel for the petitioners.

Larned Standing Counsel for 2nd respondent Corporation submits that the application of the petitioners for obtaining building permission was rejected on 25.02.2015.

It is not the case of the petitioners that the impugned notice dated 16.02.2015 is without jurisdiction, as such, question of quashing the said notice does not arise. Further, the petitioners can submit explanation to the impugned notice dated 16.02.2015 before the 2nd respondent by taking all the objections which are taken in the present writ petition.

In view of the above the petitioners are directed to submit explanation to the impugned show cause notice dated 16.02.2015 within two weeks from the date of receipt of a copy of this order. On such explanation being submitted, it is for the concerned authority who issued the impugned show cause notice, to consider the same in accordance with law and take a decision. Till such decision is taken, *Status Quo* obtaining as on today shall be maintained by both the parties. If the petitioners failed to submit explanation within the aforesaid period, it is open for the respondent authorities to take appropriate action.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions if any pending in the writ petition shall stand closed.

A.RAJASHEKER REDDY, J

17.04.2015

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