

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.21700 OF 2013

DATED:13-11-2015

Between:

Nafeesa Begum

and others ... Petitioners

And

The Greater Hyderabad Municipal Corporation

Rep. by its Commissioner

Tank Bund Road

Hyderabad

and others ... Respondents

COUNSEL FOR THE PETITIONERS : Mr. Basith Ali Yavar

COUNSEL FOR RESPONDENT NOs.1 to 3: Mr. N. Rishi Kumar,

for Mr. N. Ashok Kumar

COUNSEL FOR RESPONDENT NO.4 : Mr. Srinivasa Rao Bodduluri

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to set aside Proceedings No.566/ACP/C5/GHMC/2013, dt.18.7.2013, of the Commissioner of respondent No.1 whereby he has called upon the petitioners to file their objections, if any, as to why action under Section 459 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act') shall not be initiated as the building in question is in a dangerous condition.

Mr. M. Basith Ali Yavar, learned counsel for the petitioners, submitted that the said

notice was issued with a *mala fide* intention at the instance of respondent No.4 in order to dismantle the building which is in a very fit condition.

Under Section 456 of the Act, if any structure is in ruinous condition or likely to fall, the Commissioner may, by written notice, require the owner or occupier of such structure to do one or more of the following things, namely;

- i. to pull down
- ii. to secure,
- iii. to remove, or
- iv. to repair such structure or thing, and to prevent all cause of danger therefrom.

Under Section 459 of the Act, before issuing such notice, the Commissioner shall issue a notice giving the owner or occupier, as the case may be, a reasonable opportunity of stating any objection and adducing evidence, if any, and after being satisfied that the objection which is raised is invalid or insufficient, he shall proceed further under Section 456 of the Act.

Though the petitioners are seriously disputing the allegation that the building is in dilapidated condition, they have no reason to straightaway file this writ petition as no decision adverse to their interest has been taken so far by passing a final order under Section 456 of the Act. As an opportunity is afforded to the petitioners to submit their objections, I do not find any reason to entertain the writ petition at this stage.

Accordingly, the writ petition is disposed of by permitting the petitioners to file their objections within two weeks from the date of receipt of a copy of this order. Upon considering the objections that may be filed by the petitioners, the Commissioner of respondent No.1 shall hold an enquiry, wherein he shall give personal hearing to the petitioners as well as respondent No.4, pass a final order under Section 456 of the Act and communicate the same to the parties.

As a sequel to disposal of the writ petition, interim order dt.20.8.2013 in W.P.M.P. No.26572 of 2013 shall stand vacated and W.P.M.P. No.26572 of 2013 and W.V.M.P. No.2935 of 2013 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

13-11-2015

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