

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

W.A.No.94 of 2010

ORDER: *(Per the Hon'ble Justice S.V.Bhatt)*

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The writ petitioner through the instant appeal challenges the order dated 15.12.2009 in W.P.No.18508 of 2009.

The petitioner prays for Mandamus declaring the inaction of respondents in regularizing Flat No.GF1 in premises No.16-31-589/1 (HIG 589), Phase VI, KPHB Colony, Ranga Reddy District vide application SI.No.2784 dated 11.09.1998 in terms of G.O.Ms.No.419 M.A. dated 30.07.1998, as illegal and amounts to not exercising the jurisdiction vested in the respondents.

The writ prayer is one against inaction in considering and disposing of the request of petitioner for regularization vide application SI.No.2784 dated 11.09.1998. From the nature of prayer, it is evident that the petitioner is pursuing the available option of regularization of unauthorized construction of Flat No.GF1 in premises No.16-31-589/1 (HIG 589), Phase VI, KPHB Colony, Ranga Reddy District under G.O.Ms.No.419 M.A dated 30.07.1998. It is matter of record that the petitioner filed W.P.No.7186 of 2009 for the following relief:

“.....to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate writ, declaring the inaction of the official respondents and their subordinates in not taking steps to remove the unauthorized construction in the building bearing D.No.16-31-589 situated in Plot No.HIG-589, Phase-VI in Kukatpally Housing Board Colony, Hyderabad, as illegal, arbitrary and violative of the provisions of the H.M.C. Act, 1955 and consequently direct the official respondents to remove the unauthorized constructions in the said building forthwith, and pass.....”

Through order dated 17.07.2009, the writ petition was disposed of

as follows:

“Having regard to the facts and circumstances, since the issue is under consideration by the Corporation, without expressing any opinion as to the correctness of the allegations made by the petitioner, the writ petition is disposed of with a direction to the Corporation to complete the enquiry after giving an opportunity to the respondents 4 and 5 to put forth their case and pass appropriate orders in accordance with law as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order. No costs.”

In this background, the grievance of appellant is that the respondents have not complied with the direction of this Court in W.P.No.7168 of 2009 and are initiating steps for demolition of the area covered by Flat No.GF1 in premises No.16-31-589/1(HIG 589), Phase VI, KPHB Colony, Ranga Reddy District.

The issue is against inaction in disposing of the application filed by the appellant for regularization. Though the learned counsel appearing for the parties have made elaborate submissions in support of their respective versions, we are not inclined to refer to these submissions or express any view on these submissions on the issue of regularization is to be considered and disposed of by the respondents. In our considered view, the writ appeal can be disposed of with the following order.

- “i. the respondents are directed to consider and dispose of the application SI.No.2784 dated 11.09.1998 filed for regularization within a period of two months from the date of receipt of a copy of this order;
- ii. the appellant is given three weeks time from today to file representation/explanation, if so advised by enclosing a copy of this order for due compliance;
- iii. the appellant is directed to file an undertaking that in the event the respondents reject the request of appellant for regularization, the appellant undertakes to vacate the flat for which regularization is sought, subject to his right to

challenge such rejection order and obtain appropriate orders to preserve the property;

- iv. the appellant is given two months time to vacate the flat, if request for regularization is refused; and
- v. the authorities are directed not to take coercive steps till the expiry of period stipulated in this order.”

Writ appeal is disposed of. No costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

ACJ

DILIP B. BHOSALE,

S.V.BHATT, J

Date: 26.08.2015

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