

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.42357 of 2015

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Date: 29.12.2015

Between:

Dr.D.Karunakar Reddy

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Petitioner

and

The Greater Hyderabad Municipal Corporation,
represented by its Commissioner,
Hyderabad and 4 others

.. Respondents

Counsel for the petitioner: Mr.Rama Rao Immaneni

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The Court made the following:

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Order:

Feeling aggrieved by LR.No.3834/TPS-18/GHMC/2015, dated 18-12-2015, of respondent No.4, whereunder he has directed the petitioner to remove the unauthorised construction of compound wall within five days, failing which the same shall be removed departmentally, the petitioner filed this Writ Petition.

As per the averments of the petitioner, his daughter- Dr.D.Shilpa Reddy and son-in-law- Dr.G.Harish Reddy are the absolute owners of House Nos.9-1-87 and 119/1, Sarojini Devi Road, Secunderabad (for short 'the subject premises'), having purchased the same *vide* registered sale deed, dated 16-11-2015, from one Mrs.Kanakam Venkat Rao. It appears that they had a dispute with respondent No.5 over the subject property. Hence, the petitioner, who is their General Power of Attorney Holder, had sent letter, dated 27-11-2015, to respondent No.3 informing that the compound wall of the subject premises is in a dilapidated condition and that on the advice of the Engineer and in order to protect the property from vagabonds and anti-social elements, they intend to strengthen

the same. In response to the said letter, respondent No.4 had issued the impugned letter wherein it was pointed out that the petitioner had already started the construction of the compound wall without obtaining any permission from the Greater Hyderabad Municipal Corporation (GHMC) as required under Sections 428 and 433 of the GHMC Act, 1955 (for short 'the Act'). However, without waiting for any reply from the petitioner, respondent No.4 has called upon the petitioner to remove the unauthorised construction within five days, failing which, the same will be removed departmentally by the GHMC itself.

At the hearing, Mr.Immaneni Rama Rao, learned Counsel for the petitioner, submitted that since the petitioner is only reinforcing or re-strengthening a part of the compound wall, which was breached illegally by respondent No.5, no permission is required under the provisions of the Act.

I do not find any merit in the above submission of the learned Counsel for the petitioner as under Section 433 r/w Section 437 of the Act,

the petitioner is bound to obtain permission for removal or construction of any portion of a 'building', which expression includes compound wall also as per Section 2 (3) of the Act. Therefore, strengthening or reinforcing the compound wall, which the petitioner is claiming to have carried out, falls within the phrase 'reconstruction' under Clause (e) of Section 433 of the Act and respondent No.4 has, therefore, rightly issued the impugned letter.

Be that as it may, since the petitioner is stated to have constructed a portion of the compound wall, it would not be in the interest of justice, if the same is removed even before the respondents consider his request for permission to construct the compound wall *expost-facto*.

Accordingly, the registered owners of the subject property are permitted to file an application seeking permission for construction of a compound wall within one week from the date of receipt of this order. Within one week thereafter, respondent Nos.2 to 4 shall dispose of the same in accordance with law and communicate the same to the

applicants. However, it is made clear that removal of the compound wall shall depend upon the decision that may be taken on the application for permission made by the applicants and the petitioner shall not make any further construction without obtaining permission.

Subject to the above observation and direction, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.54627 of 2015, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 29th December, 2015
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