

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.Nos.1327, 1328, 1329, 1330, 1331, 1332 and 1333 of 2015

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COMMON ORDER :
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The issue involved in all these writ petitions arising out of impugned notice No.455/DIL/TP-18/2014, dated 13.01.2015, as such, they are being disposed of by way of Common Order.

2. In all these writ petitions, the case of the petitioners is that they are tenants of 5th respondent for a long time and that the petitioners received notice dated 08.12.2014 informing the petitioners that during inspection by the officials of the Corporation, it is observed that premises under which the petitioners are tenants, is in dilapidated condition wherein the Engineering Section has recommended to obtain Structural Stability Report from Jawaharlal Nehru Technological University, Hyderabad (JNTUH). Thereafter, the petitioners contacted the 5th respondent to obtain structural stability certificate for the entire building, as building occupied by the petitioners is in the ground floor and first floor was occupied by Anand Bhavan Hotel till recently. It is stated that the respondent No.5 has not informed his intention about obtaining and submission of stability certificate to the respondent Corporation. Thereafter, the petitioners were issued notice No.455/DIL/TP-18, dated 13.01.2015 stating that the entire premises occupied by the petitioners is in dangerous and serious condition and likely to fall causing danger to any person occupying the premises and the surrounding neighbours and the public passing through the roads in front of the premises under reference, as such, petitioners were asked to vacate and remove the said dilapidated house to avoid any sort of danger and that the Engineering Section, Secunderabad Division have also declared that the said house is in dangerous and dilapidated condition. Aggrieved by the same, the present writ petitions have

been filed.

3. Heard learned counsel for the petitioners as well as learned Standing Counsel for the respondent-Corporation.

4. Learned counsel for the petitioner submits that only at the instance of 5th respondent, the respondent-Corporation has taken such an action. In fact, building is not in such a dilapidated condition and petitioners are occupying the premises and doing the businesses without any problem. He would further submit that though the petitioners requested the landlord-5th respondent to obtain structural stability certificate, he has not expressed any intention of obtaining the said certificate, in order to see that the petitioners are evicted from the schedule property, enabling him to construct commercial complex in the said premises. He would contend that the report of the Engineering Section is vague and it is not a speaking one. He also submits that the rear portion of the building is in dilapidated condition, but not the front portion in which the petitioners are continuing as tenants. He also submits that the petitioners be permitted to obtain another structural stability certificate. He would further contend that the *modus operandi* of the landlords in that locality is to get evicted the tenants through the respondent-Corporation.

5. When the matter came up for hearing on 28.01.2015, this Court granted *Status quo* and that the learned Standing Counsel for the respondent-Corporation was asked to produce the report of the Engineer, basing on which the present impugned notices were issued.

6. Learned Standing Counsel for the respondent-Corporation submits that basing on the inspection, it was found that the premises in which the petitioners were occupying is in dangerous and serious condition and likely to fall causing danger to any person occupying the premises and the surrounding neighbours and the public passing through the roads in front of the premises, as such, Assistant Engineer

and Deputy Engineer had recommended for demolition of the structures which the petitioners are occupying and also recommended for inspection by JNTUH on 28th October, 2014. Basing on that, a letter was addressed for obtaining structural stability certificate and the owner also approached for structural stability certificate in respect of the premises occupied by the petitioners, belonging to the 5th respondent and in response thereto, inspection was also done. The Office note dated 13.01.2015 shows that the subject building is not structurally safe and stable. If there are heavy rains or minor earth quake, there may be a sudden collapse since the building is reported to be more than 70 years old and is not in good condition and may endanger the lives of the people.

The report of the Chief Coordinator, ICS, JNTUH in respect of the structural stability of the premises No.8-1-422 to 429 & 456 & 457 (Anand Bhavan Hotel) at R.P.Road, Hyderabad reads as follows:

“On the request of the owner of the premises bearing No.8-1-422 to 429 & 456 & 457 (Anand Bhavan Hotel) at R.P.Road, Secunderabad, a team of experts namely Dr.P.Srinivasa Rao and Dr.B.Dean Kumar, Professors in Civil Engineering from JNTUH College of Engineering, Hyderabad inspected the above premises on 15.12.2014.

The building is G + 1 storey structure. The front portion of the building in the ground floor has shops and the ceiling is covered with false ceiling. The building usage has been changed. The part of the building is constructed with RCC columns and slabs. Further in first floor of the building temporary structure is erected.

Growth of vegetation is observed on the terrace at many places. Also the wooden beams are found to be decayed. Rusting of Iron beams is observed at some places. The front portion of the building is in dilapidated condition with cracks in the walls, peeling of plastering from the walls, also observed at many places in the building.

No maintenance is being carried out leading to systematic deterioration of the structure over a period of years.

The rear portion of the building is beyond repair in the present condition and even if there is minor shaking or heavy rains the building will be in danger.

In the above circumstances, the building is not structurally safe and stable. If there are heavy rains or minor earth quake there may be a

sudden collapse since the building is reported to be more than 70 years old and is not in good condition and may endanger the lives of the people.”

7. The above report is made after due inspection by two experts who are Professors in Civil Engineering from JNTUH College of Engineering, Hyderabad, on 15.12.2014, which also shows that the building is beyond repairable and even if minor shake or heavy rains, the entire building will be in danger and also reported that the building is not structurally safe and stable and that it is 70 years old and it will endanger the lives of the people.

8. Though, the learned counsel for the petitioners stated that petitioners were asked to produce structural stability certificate, but they have not chosen to file anything and when the owner approached the said authority, inspection was done and recommended for demolition of the building and report is also made by Professors in Civil Engineering, JNTUH College of Engineering on 15.12.2014.

However, this Court cannot decide whether the building is structurally stable or whether it endanger the lives of the people occupying the same and also neighbours and passers by. It is for the technical team to assess the same. The Engineering Department of Municipal Corporation as well as experts in the relevant field from JNTUH, clearly opined that the building is in dilapidated condition and it will endanger the lives of the people and that the building is 70 years old. This Court cannot go into the opinion given by the experts in the relevant field by exercising the power under Article 226 of the Constitution of India and it is for the technical experts to decide the said issue. Inspection team as well as experts from Jawaharlal Nehru Technical University opined that building occupied by petitioners is in dilapidated and dangerous condition. There is no reason to disbelieve the said reports. No *mala fides* are attributed. This Court cannot conduct roving enquiry into the said aspect. This Court cannot also

postpone the demolition of the structure extending the time against experts' opinion as the same will affect lives of people.

In view of the same, I do not see any illegality or infirmity in the order passed by the respondent-Corporation dated 13.01.2015 and it cannot be said that the respondent-Corporation has taken such decision arbitrarily. Moreover, the Hyderabad Municipal Corporation Act does not provide any procedure calling for second report, after report has been submitted by the experts in Civil Engineering.

Accordingly, the writ petitions are dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending in this writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

30.01.2015.
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HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 30-01-2015

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