

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.34816 of 2015

Date:02.11.2015

Between:

Sri Padam Chand Jain,
S/o Late Misri Lal Jain

..... **Petitioner**

And:

The Greater Hyderabad Municipal
Corporation, repled., by its Commissioner,
Hyderabad and another.

.....**Respondents**

Counsel for the Petitioner: Mr. B.V.V.S.Murthy

Counsel for the Respondents: Mr. Sampath Prabhakar Reddy
(Print the name of Mr. Sampath Prabhakar
Reddy, subject to his filing memo
of appearance within one week from today)

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare the action of respondent No.2 in issuing notice No.42/TPS/W.No.112/CIR-XI/WZ/GHMC/2015, dt 9.10.2015, to the owner of the property

bearing Plot No.184 in Survey No.48(P), Kavuri Hills, Guttala Begumpet Village, Hyderabad and threatening to demolish the same without considering his representation, dated 11.10.2015, as illegal and arbitrary.

The petitioner claims that he has taken Plot No.184 in Survey No.48(P), Kavuri Hills, Phase-II, Guttala Begumpet Village, Hyderabad on lease on 03.6.2015 from one Smt Nilohitha Reddy, D/o Y.Siva Shankar Reddy for carrying on the business of selling and purchasing of cars and finance of vehicles; that to the existing shed, he has made small changes and other renovations to suit the business; and that respondent No.2 issued notice, dated 09.10.2015, alleging unauthorised construction of shed without permission and the site under reference falling partly in FTL Zone and partly in buffer zone of Durgam Cheruvu limits. The petitioner further averred that the said notice was served in the name of V.Nilohitha Reddy, the owner of the said property; that the respondents have not served any notice on the petitioner or in the name of business he is running; that he approached respondent No.2 through representation, dated 11.10.2015; and that despite receiving said representation and his explaining the factual situation to respondent No.2, the officials of the said respondent visited the property and informed that they would demolish the same without any further notice.

At the hearing, Mr. Sampath Prabhakar Reddy, learned Standing Counsel for the respondents, on instructions, submitted that as the petitioner, who is in occupation of the above-mentioned premises, has raised unauthorised construction without permission, a notice under Sections-452(1) and 461 (1) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') was issued and that no final order has been passed under Section-636 of the Act so far. He has also denied the plea of the petitioner that any of the officials of respondent No.2 have tried to demolish the unauthorised construction before passing an order under Section-636 of the Act.

It is not the pleaded case of the petitioner that before constructing the shed, either the owner of the property or himself has obtained permission from the respondents. Though the petitioner referred to a purported lease, learned counsel representing him at the hearing submitted that the said lease is not a registered lease deed.

As an unregistered lease deed in respect of an immovable property requires compulsory registration under Section-17(d) of the Registration Act, non-registration of the purported lease deed does not confer any legal right on the purported lessee. The petitioner, therefore, cannot claim any locus to question the action

of the respondents in issuing notice under Sections-452(1) and 461 (1) of the Act.

Even assuming that the petitioner has such locus, when an unauthorised construction is made, it is the bounden duty of the respondents to exercise their power of issuing a notice and removing the unauthorised construction. Therefore, no exception can be taken to the impugned notice.

In his affidavit, the petitioner has raised a vague plea that “the authorities of respondent No.2 visited the property and informed that they would demolish the property without any further notice.” This plea is as vague as vagueness could be. He has not disclosed the identity of persons and their designations who allegedly visited the property and at least the date, if not the time, on which they have allegedly informed the petitioner that they would demolish the property without further notice. This allegation is emphatically denied by the learned Standing Counsel. I have no doubt in my mind that this vague and unsubstantiated averment is made by the petitioner to create an artificial cause of action for filing this Writ Petition to prevent the respondents from discharging their statutory functions. Such vexatious litigation must be put down with heavy hand.

For the above-mentioned reasons, the Writ Petition is dismissed with costs of Rs.10,000/- (Rupees Ten thousand only).

As a sequel to dismissal of the Writ Petition, interim order, dated 19.10.2015, is vacated and W.P.M.P.No.44748 of 2015 shall stand dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

02nd November, 2015

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