

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.3992 OF 2015

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ORDER :

This petition is filed for a writ of *Mandamus* declaring the action of the 2nd respondent in issuing Notice dated 30.01.2015, under Section 452(1) and 461(1) of HMC Act, 1955, as illegal and arbitrary and consequently to set aside the same.

The case of the petitioner is that he is the absolute owner and possessor of the land admeasuring 146.66 Sq.Ys. in Sy.No.217 of Deshaipet Revenue Village, Ward No.11, Block No.29, situated at Ramanadhapuri Road No.2, Deshaipet Road, Warangal City, Mandal and District, having purchased the same under a registered sale deed dated 27.08.2014 for a valid sale consideration from one Gunda Rajeshwar Rao and two others and has been in continuous possession and enjoyment of the property without any disturbance. While so, the petitioner submitted application for grant of construction permission under 428 and 433 of the Hyderabad Municipal Corporation Act (*for short the HMC Act*) and the 2nd respondent having received the same on 24.11.2014, has not initiated any steps to dispose the same, till today. He further submits that as per Section 437 of the HMC Act, the respondents are under obligation either to reject or grant building permission, within 30 days. He also submits that since he has not received any communication from the 2nd respondent with regard to granting or rejection of the permission, within 30 days, he started construction strictly in accordance with the plan submitted by him to the 2nd respondent and completed the slab work of ground floor. While so, the 3rd respondent issued notice

under Section 452(1) and 461(1) of HMC Act, dated 30.01.2015, asking the petitioner to show sufficient cause within seven days, as to why the deviated portion/unauthorised construction shall not be removed, altered or pull down and also further directed the petitioner to stop the work forthwith. Thereafter, the petitioner submitted explanation on 31.01.2015 along with copies of fee receipts, building plan and other necessary documents. But, without considering and passing any orders on the same, the respondents are trying to demolish the structures over the property. It is also stated that the petitioner again submitted his explanation on 05.02.2015 and sought withdrawal of the impugned notice. But the respondents without considering the petitioner's representations dated 31.01.2015 and 05.02.2015, are trying to demolish the structures over the subject property. Aggrieved by the same present writ petition is filed.

Heard learned counsel for the petitioner.

Learned Standing Counsel for respondents 2 and 3 submits that since petitioner has started construction without obtaining any permission, the respondents issued impugned notice dated 30.01.2015 for which the petitioner submitted explanation. He further states that the application submitted by the petitioner for building permission dated 24.11.2014, is pending.

In this case, admittedly, the petitioner submitted application on 24.11.2014 for obtaining building permission along with necessary fee and it is the duty of the competent authority to pass orders on the application. But, since the respondents have not passed any orders on the application for building permission, petitioner proceeded with construction. As such, fault lies on the

respondent officials. The respondents shall not keep the application pending for long. Even the petitioner also should have intimated the commencement of construction work to the respondent authorities. Any how, since the application dated 24.11.2014 submitted by the petitioner for building permission is pending before the respondents and since the petitioner already submitted his explanation to the impugned notice dated 30.01.2015, it is for the 3rd respondent to consider the application dated 24.11.2014 and pass orders in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. Till then, *Status Quo*, obtaining as on today shall be maintained. If the 3rd respondent fails to pass orders on the application of the petitioner within the aforesaid period, it is open for the petitioner to proceed with the construction as per the plan submitted by him for grant of permission.

Accordingly the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions if any pending in the writ petition shall stand closed.

A.RAJASHEKER REDDY, J

24.02.2015

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