

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.20169 of 2014

Dated 27th January, 2016

Between:

Dr.Mujeebunnisa Baig

...Petitioner

And

Government of Telangana, rep.by its Principal Secretary, Municipal
Administration, Secretariat Buildings, Hyderabad and others

...Respondents

Counsel for the petitioner: Sri Rusheek Reddy K.V.
for Sri Tarun G.Reddy

Counsel for respondent No.1: AGP for Municipal Administration
Counsel for respondent Nos.2 to 5: Sri P.Kesava Rao
Counsel for respondent No.6: Sri M.Vijay

The Court made the following:

ORDER:

The petitioner, who is the immediate neighbour of respondent No.6, filed this writ petition to declare the inaction of respondent Nos.2 to 5 in taking steps against the illegal constructions raised by the said respondent at premises bearing H.No.8-2-400, Road No.5, Banjara Hills, Hyderabad as illegal and arbitrary.

This Court on 18.07.2014, while ordering notice directed that respondent No.6 shall not make any further construction otherwise than in accordance with the sanctioned plan. This Court also made it clear that the said order shall not preclude respondent Nos.2 to 5 from taking action against respondent No.6 for the deviation in the

construction made by him.

It is brought to the notice of this Court that three days prior to the filing of the present writ petition and grant of interim order, respondent No.6 filed a civil suit i.e., O.S.No.572 of 2014 in the Court of the learned II Additional Chief Judge, City Civil Courts, Hyderabad on apprehension that the officials of the GHMC may demolish the structure raised by him.

Sri Rusheek Reddy K.V., learned counsel for the petitioner, submitted that on 15.07.2014, the learned Senior Civil Judge, City Civil Courts, Hyderabad granted interim order of *status quo*.

From the record, it can be seen that on the same day on which the suit was filed and an interim order was granted, show cause notice under Section 452(1) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') was issued to respondent No.6 which is not the subject matter of the civil suit. Therefore, for all practical purposes, the civil suit has become infructuous and the interim order granted therein is rendered ineffective. As noted hereinbefore, the grievance of the petitioner is that despite issue of show-cause notice, dated 15.07.2014, no further action was taken by the officials of GHMC.

No counter affidavit is filed by the GHMC.

The learned counsel for the petitioner submitted that evidently in the guise of order of *status quo* granted by the civil Court and in violation of the interim order granted by this Court, respondent No.6 has raised columns for second floor without permission.

From the facts noted above, it is evident that obviously due to the filing of the civil suit by respondent No.6, the officials of the GHMC have not proceeded further after issue of notice, dated 15.07.2014. In view of the finding rendered above, the civil suit is rendered infructuous on account of issue of show-cause notice and there is no legal impediment for the officials of the GHMC to proceed further.

However, a perusal of the show-cause notice shows that it is as

vague as vagueness could be, in that, except the allegation that deviations were made by respondent No.6 in respect of all-round open space, it has not referred to the open space required to be left as per the sanctioned plan and the shortfall therein. In my opinion, no action on such vague show cause notice can be taken.

Therefore, respondent No.2 is directed to issue a fresh notice under Sections 452(1) and 451(1) of the Act to respondent No.6 within one week from the date of receipt of a copy of this order. In the said notice, respondent No.2 shall specifically mention the shortfall in all-round open space. It shall also refer to the further construction if any made as alleged by the learned counsel for the petitioner after issuing the show-cause notice, dated 15.07.2014. Respondent No.2 shall proceed further on receipt of the explanation, if any, submitted by respondent No.6 and complete the entire process within two months from the date of receipt of a copy of this order. Till this process is completed, respondent No.6 is restrained from proceeding with any further construction.

Subject to the above observations and directions, the writ petition is allowed.

As a sequel to disposal of the writ petition, WP.M.P.Nos.25300 & 25301 of 2014; 2057 of 2016 and WV.MP.No.3155 of 2014 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

27th January, 2016
VGB