

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT APPEAL Nos. 309 and 310 of 2016

Dt:27.06.2016

Between:

K.P.Vivekanand and others.

... Appellants

And

K.M.Pratap and others.

... Respondents

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT APPEAL Nos. 309 and 310 of 2016

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard Mr.D.Prakash Reddy, learned Senior Counsel for the appellants in W.A.No.309 of 2016 and Mr.B.Nalin Kumar, learned counsel for the appellant in W.A.No.310 of 2016, Mr.P.Kesava Rao, learned Standing Counsel for the Corporation in both the writ appeals, Mr.B.Adinarayana Rao, learned Senior Counsel for respondent No.1 in W.A.No.309 of 2016 and respondent No.7 in W.A.No.310 of 2016 i.e. the writ petitioner and learned Government Pleader for Municipal Administration in both the writ appeals.

Mr.D.Prakash Reddy, after arguing W.A.No.309 of 2016 for some time and after taking instructions from the appellants, does not press this appeal and seeks six months time to the appellants to implement the order, dated 25.04.2016, passed in W.P.Nos.9687 and 11460 of 2015. Relevant paragraph and the directions in the said order read thus:

“22. Since the plea raised by the petitioner in W.P. No.11460 of 2015, that at short notice it is not possible for it to find out an alternative accommodation to shift the primary school and junior college by obtaining necessary permissions from the statutory authorities, one year has passed by, and as this period was more than sufficient for an educational society to secure an alternative premises and all necessary permissions, the grounds

on which the said writ petition was filed are no longer available to it now. The educational society, the petitioner in W.P. No.11460 of 2015, is thoroughly made known about the fact that it is in occupation of the buildings which are constructed in brazen violation of law. As the said society boasts of imparting education of high standards in both the State of Telangana and Andhra Pradesh, it has a social, legal, moral and ethical responsibility not to utilize the buildings which are constructed in utter violation of the building laws. At any rate, even as per the petitioner's own request it sought time till the end of the academic year 2015-16 for vacating the building and this period has expired.

23. In the above facts and circumstances of the case, the writ petitions are disposed of subject to the following directions.

(i) The petitioner in W.P. No.11460 of 2015 shall vacate the building in all respects on or before 01.6.2016 after issuing notice to respondent Nos.2 to 4 in W.P. No.9687 of 2015.

(ii) From 01.6.2016 respondent Nos.2 to 4 in W.P. No.9687 of 2015 shall remove all the portions of the two buildings which are constructed in violation of the sanctioned plan, complete the demolitions and file a report along with photographs in proof of such demolition by 15.6.2016 before the Registry.

(iii) The Commissioner of the Greater Hyderabad Municipal Corporation shall identify and initiate departmental proceedings against all the officers who are responsible for dereliction of their duties pertaining to failure to inspect, issue timely notices to respondent Nos.9 to 11 to stop illegal constructions, and displayed lethargy in issuing and enforcing notices under Sections 452 and 636 of the Act, forthwith, and file his report in the Registry, on or before 15.06.2016.

As a sequel to disposal of the writ petitions, W.P.M.P. No.12736 of 2015 in W.P. No.9587 of 2015, and W.P.M.P. Nos.15152 and 35666 of 2015 and W.V.M.P. (SR) No.72512 of 2015 in W.P. No.11460 of 2015 shall stand disposed of as infructuous."

Learned counsel for the respondents have not seriously opposed the submission made on behalf of the appellants in W.A.No.309 of 2016.

In the circumstances, we dispose of W.A.No.309 of 2016 and W.A.No.310 of 2016 by the following order:

"W.A.No.309 of 2016 is dismissed as not pressed.

All the appellants shall furnish undertaking to this Court stating

that within six months from today, they shall vacate the building and remove all portions thereof, constructed in violation of the sanctioned plan, and complete the demolition and file a report along with photographs, as per the impugned order, in proof of such demolition on or before 10.01.2017. The appellants, as submitted by learned counsel for them, to further state that they shall not press their application for regularisation and that they will not create any third party rights in the building even for a period of six months or lesser period and shall not use the building for any purpose whatsoever. Undertaking to be filed within a period of two weeks from today with an advance copy thereof to learned counsel for the respondents. If the appellants fail to furnish undertaking as aforementioned, it is open to the respondent-Corporation to proceed with demolition as indicated in the impugned order.

It is needless to mention that the appellants shall remove all portions of the buildings, which are constructed in violation of the sanctioned plan, at their cost, and if they do not do so, it is open for the respondent-Corporation to recover the cost of demolition from the appellants.

Insofar as W.A.No.310 of 2016 is concerned, learned counsel for the appellant undertakes that the appellant will shift as early as possible and in any case within three months i.e. on or before 30.09.2016. It is made clear that the time is granted to the appellant only to shift their all belongings and not to run college/school in the subject premises even for a day during this academic year (2016-17). It is further made clear that if they do not remove their belongings on or before 30.09.2016, it is open to the appellants in W.A.No.309 of 2016 to forcibly remove everything and start demolition work. It is open to these appellants to take police aid, if necessary.

With these observations, W.A.No.310 of 2016 is disposed of.”

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO,J

Dt:27.06.2016
kdl

