

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION No.965 of 2016

ORDER:

This Civil Revision Petition is preferred against the order passed by the Court below in I.A.No.958 of 2015 in O.S.No.27 of 2015, dated 02.02.2016. The petitioners herein are the plaintiffs in O.S.No.27 of 2015. They filed the said suit against the Greater Visakhapatnam Municipal Corporation (for short 'GVMC') questioning the notice issued to them, under Section 636 of the Hyderabad Municipal Corporation Act, for demolition of a part of the suit schedule property. The GVMC remained *ex parte*. Subsequent thereto the 1st respondent herein, who admittedly resides in the ground floor of the same building, filed an application under Order I Rule 10 C.P.C. to implead herself as a respondent in the suit.

In the order under revision, the Court below noted her contention that she was the owner of the flat in the ground floor, and the suit schedule property in the first floor was located above her ground floor flat; the petitioners-plaintiffs were making construction without permission from the 3rd respondent; and they had caused damage to her flat. As the interests of the respondent was claimed to have been adversely affected, the Court below allowed the petition to avoid multiplicity of proceedings; and impleaded her as a defendant in the suit.

It is not even disputed before this Court by Sri R.Siva Sai Swaroop, learned counsel for the petitioners, that the GVMC did not grant permission to the petitioner to make construction, and it is contended that the construction was made in view of the deemed permission provided under the Act.

The provisions of the Act obligate the GVMC to ensure that the building constructed in the Visakhapatnam Corporation limits are

strictly in accordance with the provisions of the Act, and the rules and bye-laws made thereunder. Failure to comply with the provisions of the Act, and in proceeding with construction without obtaining permission from the Corporation, would justify the person, who is adversely effected by any such construction, in either invoking the jurisdiction of the Court, or in impleading herself in a suit filed by the person who has resorted to illegal construction, in order to defend the action of the municipal corporation in taking action against such illegal constructions.

In the present case, the 1st respondent is the owner of the ground floor flat, located below the flat of the petitioners. She is aggrieved by the constructions made by them. The Court below has rightly allowed the application, as a result of which the 1st respondent is now arrayed as the 2nd defendant in the suit. The jurisdiction, which this Court exercises under Article 227 of the Constitution of India, is supervisory and not appellate. Save patent illegality, or substantial injustice being caused, this Court would, ordinarily, not exercise discretion to interfere with the order of the Court below. The order under revision does not suffer from any patent illegality and does not call for interference in proceedings under Article 227 of the Constitution of India.

The Civil Revision Petition fails and is, accordingly, dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

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RAMESH RANGANATHAN,J

26.02.2016

v v