

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.15367 OF 2012

ORDER:

The petitioners pray for the following relief:

"..to issue a writ of Mandamus or any other appropriate writ declaring that the action of the respondent in demolishing a portion of the toilets which were being renovated in premises No.2-12-70, Opp: Padmashali Kalyana Mantapam, West Marredpally, Secunderabad, without issuing any notice as arbitrary and illegal and consequently direct the respondent not to interfere with the renovation of the toilets in the premises No.2-12-70, Opp: Padmashali Kalyana Mantapam, West Marredpally, Secunderabad.."

The sole respondent filed counter affidavit and the stand taken by the respondent is two fold, which reads thus:

"It is humbly submitted that the petitioner had indulged in undertaking unauthorized construction earlier by undertaking construction without any prior permission of the Board and the same was removed by following the due process of law i.e. following the procedure as was contemplated in Cantonment Act, 1924.

It is humbly submitted that the property in question is a bungalow with Bungalow No.222 in GLR Survey No.491 and the same is classified as B3 as per the General Land Registered maintained by the Defence Estates Officer, Andhra Pradesh Circle. The old grant bungalows are regulated by the Governor General Order No.179 dated 12.09.1936 and hence no construction can be undertaken in old grant bungalows without the prior permission of the Government of India represented by Defence Estates Officer. The land upon which the buildings are constructed belonging to the Government of India, Ministry of Defence. In view of the above circumstances, the petitioner neither obtained the prior permission from the Defence Estates Officer nor approached the Cantonment Board for seeking permission to construct the building. It is therefore clear that the petitioner has suppressed true facts of the case and filed the above referred writ petition to seek interim relief so that the unauthorised construction undertaken can be completed. In view of the subsisting interim order, neither the Defence Estates Officer nor the Board could take any action or proceedings till date. The writ petition is not maintainable and is liable to be dismissed on the aforesaid ground alone."

From the stand taken in the counter affidavit, Mr.Prabhakar Peri submits that the respondent admits that procedure is to be followed even if any action is contemplated or initiated against the unauthorised structures. Further respondent alleges that the same procedure is followed as and when action is taken and the same procedure may be extended in the case on hand as well. The standing counsel submits that the respondent, if circumstances warrant will put the petitioners on notice and proceed in accordance with law. The statement is placed on record and accordingly the writ petition is disposed of. No order as to costs.

Miscellaneous petitions pending if any shall stand closed.

S.V.BHATT, J

Date:23.08.2016
Stp