

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 39446 of 2012

Order:

The first petitioner is the absolute owner and possessor of the house bearing No.6-1-86, admeasuring 78 sq. yards situated in Survey No.95, Katedan village, Rajendranagar Circle, Hyderabad. He got the said property under a gift settlement deed dated 01.06.2012 executed by his father. Similarly, the petitioners 2 and 3 are the owners of House No.6-1-87, admeasuring 78 sq. yards in the same survey number who got the same under a gift settlement deed executed by their father on 01.06.2012. They applied for grant of building permission on 04.07.2012 and no permission was granted within a period of 90 days. They started construction under the deeming provision. When the respondents tried to demolish the said property, the present Writ Petition was filed.

A counter affidavit is filed by the respondents stating that though the petitioners filed an application seeking building permission, no amount was paid. In those circumstances, no file number was generated for processing the building application. The petitioners have constructed the building consisting of Ground + 2 Upper Floors unauthorisedly and completed the same. They constructed the building with deviations in the front open spaces and the application so submitted is also only for Ground + First Floor and the construction of second floor is totally unauthorized one.

This Court, by order dated 21.12.2012, directed that the respondents shall not demolish, but gave liberty to issue a notice and receive the explanation from the petitioners for consideration, but no final orders of demolition shall be passed.

When the matter is taken up for consideration, learned counsel for the petitioners submitted that an appropriate application is filed on 27.12.2015 under building penalization scheme and the same is pending before the respondents.

A Public Interest Litigation was filed before this Court challenging the scheme of regularization of unauthorized constructions and a Division Bench of this Court while keeping the said Writ Petition pending directed the respondents, Greater Hyderabad Municipal Corporation to consider the pending applications and wherever the regularization orders cannot be considered allowed the respondents to pass appropriate orders rejecting the applications, but in respect of the applications which can be considered for regularization were asked to be kept pending, pending further orders to be passed in the said Public Interest Litigation.

In view of the same, in the instant case also if the application of the petitioners is pending consideration, the same can be processed as per the directions of the Division Bench of this Court and appropriate action can be taken in accordance with the said directions. If no application of the petitioners is pending or if the application of the petitioners is rejected, it is open to the respondents to take appropriate action in accordance with law.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs. The Miscellaneous Petitions pending, if any, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 22.11.2016
Nsr