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

PUBLIC INTEREST LITIGATION No.339 of 2015

Date: 22.02.2016

Between:

Sri Mohd. Abdul Qader @ Shafath,
S/o Mohammed Wajihuddin Saheb,
Aged about 40 years, Occu:Law Student,
R/o 1-9-280, Adikmet, Vidyanagar,
Hyderabad and another.

….. Petitioners

and

The Collector, Hyderabad District,
Nampally, Hyderabad and others.

…..Respondents

The Court made the following:

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

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PC: (Per the Hon'ble Sri Justice P.Naveen Rao)

This PIL is filed praying to grant following relief:

(i) to declare the inaction of the respondent no.4 in not considering the representation of the petitioner dated 07.11.2015 sent through SMS, to take appropriate action against the illegal construction being carried out at H.No.20-4-1215, Lad Bazaar, Charminar, as illegal and in violation of the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'GHMC Act') and Ancient Monuments and Archeological Sites Remains Act, 1958 (for short, 'Act, 1958) with a further direction to respondent Nos.1 to 5 to demolish all that existing illegal construction consisting of pillars and roof forming part of premises No.20-4-1215, situated at Lad Bazar, Hyderabad ; and

ii) to issue direction to respondents nos.6 and 7 not to proceed with any further construction in the subject premises.

2. Petitioners allege that the subject premises is within 50 feet distance of the historical Charminar and Macca Masjid. Charminar and Macca Masjid are protected monuments as per the provisions of the Act, 1958. No civil construction can be made without prior permission from the competent authority under the Act, 1958 and GHMC Act, whereas without obtaining permissions from the GHMC and competent authority under the Act, 1958, the 6th and 7th respondents are undertaking construction in the subject property.

3. By order dated 16.11.2015, respondents 6 and 7 were directed to stop construction of their shop forthwith. Respondents 2 to 4 were directed to ensure that no construction is raised by the respondents 6 and 7 or any other person if the construction is in contravention of the provisions of the Act, 1958.

4. Counter affidavits filed on behalf of the respondents 2 to 4 and

respondent no.7.

5. Respondent no.7 denied his involvement. He claims to be the councilor representing the area and has good reputation. According to the 7th respondent, he is no way concerned with the subject property and is falsely dragged into the litigation.

6. In the counter affidavit filed on behalf of the respondents 2 to 4, the allegations made by the petitioners are categorically denied. It is averred that they have taken all the steps to ensure no illegal construction is made by the 6th respondent in the subject premises. Notice under Section 459 of the GHMC Act was served on the 6th respondent and further action is being taken. It is also averred that 6th respondent filed statement in writing stating that he would not make any illegal construction. It is also their stand that regular inspection being conducted to ensure that no further construction is taken up.

7. Learned Assistant Solicitor General placed on record the letter addressed by the Superintending Archaeologist dated 16.11.2015. To the said letter, notice dated 10.12.2015 is enclosed. The competent authority issued notice to the owner of the subject building calling upon to explain as to why penal action should not be taken against him on violation of the provisions of the Act, 1958 and Rules made there under read with amendment and Validation Act, 2010.

8. As seen from the averments in the counter affidavit filed on behalf of respondents 2 to 4 and the documents placed on record by the learned Assistant Solicitor General, the concerned authorities have set in motion action as warranted by GHMC Act and Act, 1958 against the 6th respondent on alleged illegal construction in the subject premises. In view of the same no further orders need to be passed in this PIL and the same is accordingly disposed of. Miscellaneous petitions if any pending shall stand closed.

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DILIP B. BHOSALE, ACJ

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P.NAVEEN RAO, J

Date: 22.02.2016
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