

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos. 37006, 37008 & 37015 OF 2016

COMMON ORDER:

These writ petitions are filed by the petitioners for a writ of Mandamus declaring the action of the respondents in directly issuing proceedings, dated 27.10.2016, directing them to remove the sheds constructed by them in the property in question while refusing to receive their applications, dated 27.10.2016, for regularization under Section 455-A of the Hyderabad Municipal Corporation Act, 1955 (for short, "the Act"), without following due procedure of law, as illegal, arbitrary, against the principles of natural justice apart from being in violation of the provisions of the Act and consequently direct the respondents not to interfere with their rights and possession in the property in question.

With the consent of both the parties, the writ petitions are being disposed of at the admission stage.

It is the case of the petitioners that one Smt. Y. Rajyalakshmi w/o. late Vittal Rao, has filed W.P.No.15343 of 2016, wherein the petitioners were made as party respondents. Considering the nature of the relief sought for in the said writ petition, this Court did not consider it necessary to issue notices to the petitioners and disposed of the same directing the authorities to give an opportunity of hearing to all the parties, consider the representations made by the said Rajyalakshmi, who claims to be the power of attorney holder on behalf of the petitioners, and pass appropriate orders thereon.

Pursuant to the orders of this Court, the respondents, by making a reference to the orders of this Court, dated 29.04.2016, passed in W.P.No.15343 of 2016,

issued notices, dated 24.10.2016, to the petitioners to appear before the Commissioner, GHMC, for hearing to be held on 27.10.2016 at 10.00 a.m. in his chambers in the above cases. Thereafter, the impugned orders came to be passed, which are assailed in the present Writ Petitions.

A perusal of the impugned orders show that the same were not preceded by any notice, as required under the provisions of the Act, alleging that the petitioners had made unauthorized or illegal constructions, and the notices, dated 24.10.2016, are only to appear before the Commissioner and they do not mention about the nature of allegations against the petitioners. In that view of the matter, the petitioners were not given adequate opportunity of explaining their stand before the respondent Corporation. While recording the said order, an observation was made with regard to the civil dispute existing between the petitioners with respect to the ownership of the subject property.

In those circumstances, considering the submission of the learned counsel for the Corporation that in strict sense notices, as required under the Act, were not admittedly given, it is open to the Corporation to take appropriate action by following due process of law.

Accordingly, the Writ Petitions are allowed setting aside the impugned orders, dated 27.10.2016. However, liberty is given to the respondent Corporation to issue notices to the petitioners and thereafter proceed with the matter, after following due process in terms of the orders of this Court in W.P.No.15343 of 2016, dated 29.04.2016. Till such time orders are passed, no demolition activity shall be undertaken by the Corporation. The petitioners also submit that Section 455(A) gives an opportunity to them to make an application to the Corporation seeking regularization of the constructions made without permission. In the light

of the statutory provisions it is always open for the petitioners to approach the Corporation with such an application.

Miscellaneous petitions, if any, shall also stand disposed of. No order as to costs.

CHALLA KODANDA RAM, J

Date: 28.10.2016
ES

