

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT APPEAL No.716 OF 2016 & WRIT PETITION No.17231 of 2016

COMMON ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This Writ Appeal, under Clause 15 of Letters Patent, is preferred against the order passed by the learned Single Judge in W.V.M.P.No.3105 of 2016 in W.P.No.17231 of 2016 dated 28.07.2016. Sri G.Pedda Babu, learned counsel for the appellant-writ petitioner, Sri R.Sudheer, learned Standing Counsel for the 1st respondent-Municipal Corporation, and Sri N.Subba Rao, learned counsel appearing on behalf of respondents 3 to 18, would agree that, instead of an order being passed in the appeal preferred against the interlocutory order, W.P.No.17231 of 2016 itself could be disposed of.

The grievance of the appellant is that even without a counter affidavit being filed by the 1st respondent, the learned Single Judge had proceeded on the premise that a copy of the notice issued under Section 452(1) of the GHMC Act, 1955 (for short "the Act") had been served on the appellant-writ petitioner, and a copy thereof had been pasted near their flat, when it was the specific case of the appellant-writ petitioner that he was not served with a copy of the Section 452 notice.

While fairly stating that a counter affidavit was not filed, and that the 1st respondent-Corporation had only produced the records, Sri R.Sudheer, learned Standing Counsel, would submit that, as the notice under Section 636 of the Act was admittedly served on the appellant-writ petitioner later, it would suffice if this Court were to treat the said Section 636 notice as a notice issued under Section 452(1) of the Act, permit the appellant-writ petitioner to submit his reply thereto within a specified time frame, and leave it open to the 1st respondent-Corporation to pass orders thereupon and thereafter take action in accordance with law.

Sri N.Subba Rao, learned counsel for respondents 3 to 18, would, however, submit that unless this Court were to fix a time frame even for the 1st respondent-Corporation to pass an order, it may well result in the 1st respondent not taking any action, as is evident from their inaction for the past eight years.

As the learned counsel on either side are in agreement that the writ petition itself can be disposed of, we consider it appropriate to treat the notice issued to the appellant-writ petitioner under Section 636 of the Act as a notice under Section 452(1) of the Act. The appellant-writ petitioner shall submit his reply thereto within two weeks from today. The 1st respondent-Corporation shall, within two weeks from the date of receipt of the petitioner's reply to the notice aforementioned, pass a reasoned order. The 1st respondent-corporation shall communicate the order passed, with regards the subject property, to the appellant-writ petitioner, and shall refrain from taking coercive steps for a period of one week from the date of communication of the order to enable the appellant-writ petitioner, if need be, to avail his legal remedies.

Both the Writ Appeal and the Writ Petition are disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

16th August 2016
JSU

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Date: 16.08.2016

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