

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.38835 OF 2016

DATED : 17.11.2016

Between :

Dr.V.N.Mathur S/o.Late Dr.U.N.Mathur,
Aged 55 yrs, Occu : Doctor,
R/o.H.No.75, HIG-A,
A.P.Housing Board Colony,
Gachibowli, Serlingampally Mandal,
Ranga Reddy District.

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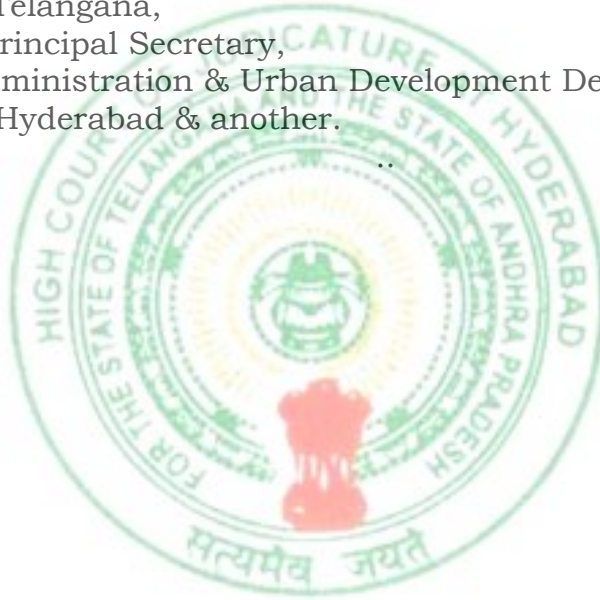
Petitioner

And

The State of Telangana,
Rep., by its Principal Secretary,
Municipal Administration & Urban Development Department,
Secretariat, Hyderabad & another.

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Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER :

Alleging that the respondents are trying to interfere and demolish the building constructed by the petitioner, this writ petition is filed.

2. As seen from the material on record, on 18.10.2016 notice under Section 452 (1) & 461 (1) of Greater Hyderabad Municipal Corporation Act, (for short 'the GHMC Act') was issued alleging that the petitioner has constructed partly on 5th floor and explanation was called for against the unauthorized construction. Petitioner submitted explanation on 02.11.2016. Even before a decision is taken by the respondent-authority, this writ petition is filed.

3. Learned Standing counsel submits that this notice is under Section 452 (1) of the GHMC Act, and the matter is under consideration of the competent authority and even before the matter was considered and a decision is taken, this writ petition is filed and the same is pre-mature. Learned Standing counsel further submits that the petitioner is undertaking construction of 5th floor also.

4. Learned counsel for the petitioner would submit that the respondent authorities are threatening to demolish without passing orders on the explanation and their action is motivated.

5. As seen from the material on record building permission was granted only for ground floor. Whereas the petitioner undertook construction of four upper floors and later applied for regularization and it appears regularization was granted. As seen

from the notice dated 18.10.2016 petitioner was called upon to explain and submit documents for construction of ground + 4 upper floors and partly constructed 5th floor. Even according to the regularization granted to the petitioner as claimed, it was only Ground + 4 floors and apparently petitioner made construction of 5th floor also. Thus, whether valid construction was made is a matter which requires consideration of the competent authority. Even before a decision is taken by the competent authority consequence to the notice issued under Section 452 (1) of the GHMC Act, this Court cannot interfere and foreclose the power of the authority to take appropriate decision which is enjoined upon him under the GHMC Act. Thus, the claim made by the petitioner is premature.

6. Having regard to the contentions of the learned Standing Counsel, and the fact that regularization order also speaks about G+4 floors, petitioner is directed not to undertake any further construction until a decision is made by the competent authority, in pursuant to the notice dated 18.10.2016. The respondent authorities are also directed not to take any coercive action against the petitioner, till the issue is finalized.

7. Accordingly, the writ petition is dismissed, leaving it open to the petitioner to work out his remedies as and when decision is made. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

17th November, 2016
Rds

P.NAVEEN RAO,J