

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.22275 of 2012

ORDER:

Heard Sri Peri Prabhakar, learned counsel for the petitioner and learned Standing Counsel for respondent.

The petitioner seeks to declare, letter No.SCB/EB/Sealing of UAC/1150, dated 08.06.2012, as illegal, arbitrary and contrary to the provisions of the Cantonments Act, 2006 (for short 'the Act').

The operative portion of the impugned communication reads as follows:

"To

Smt.Vijaya Gopal,
W/o.Shri.Vishwanath Gopal,
R/o.Plot No.139,
Durga Vihar, Trimulgherry Village,
Secunderabad-15.

Whereas the undersigned is of the opinion that you have made erected/re-erected/commenced/completed the subject work unauthorisedly at plot No.78 in Survey Nos.74, 100/1, 100/2, 100/3, 102 and 103 of Durgamatha House Building CHS Ltd., Gunrock Road, Trimulgherry, Secunderabad Cantonment is contravention of Cantonments Act, 2006 or not authorized by the competent authority and the said work be sealed in the said premises.

Now, therefore in pursuance of proviso to Section 249 of Cantonments Act 2006, I hereby call up you to seal such erection carried or completed in the premises within three days from the date of the issue of this notice, otherwise the sealing of the aforesaid premises will be done by this Office at your cost.

The details of unauthorized construction are as under:

STILT AND GROUND FLOORS:

- 1.Setbacks marginal open spaces have not maintain around the building as per the sanctioned plan. The floor area has been increased more than the sanctioned plan.
- 2.You are constructing the building by clubbing neighbouring Plot

No.77, which was sanctioned vide CBR No.,12 (43) dated 27.04.2010 which is contrary to the building byelaws.

SCHEDULE OF THE PROPERTY:

North: Neighbours land.

South: 40'-0" Road.

East: Plot No.79

West: Plot No.76.

This is for strict compliance.”

The petitioner challenging the communication filed appeal under Section 340 of the Act before the General Officer Commanding In-chief, Southern Command at Pune. The respondent on 26.03.2011 has forwarded para-wise comments on the appeal filed by the petitioner. While the matter stood thus, complaint of the petitioner is that the respondent was taking steps to demolish the alleged unauthorized constructions. On 23.07.2012, this Court passed the following order:

“Notice before admission.

There shall be stay of demolition of the structures raised by the petitioner pursuant to the impugned notices. Further, the petitioner also shall not make any further constructions from today onwards.”

Counsel appearing for the parties submit that the appellate authority/ General Officer Commanding In-chief, Southern Command at Pune may be directed to consider and dispose of the appeal as expeditiously as possible and preferably within three months from the date of receipt of this order.

Hence, writ petition is disposed of by directing the appellate

authority to dispose of the appeal filed by the petitioner against communication, dated 08.06.2012, within three months from the date of receipt of this order. The interim order, dated 23.07.2012, is directed to be maintained till the appeal is decided and order is communicated to petitioner.

Registry is directed to communicate this order to the General Officer Commanding In-chief, Southern Command at Pune.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

S.V.BHATT,J

Dt:16.08.2016

kdl