

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.8855 of 2016

ORDER:

Heard Sri M.R.S. Srinivas, learned counsel for the petitioner,
and
Sri P. Kesava Rao, learned Standing Counsel for the Greater
Hyderabad Municipal Corporation.

The prayer of the petitioner in this case is as under:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon’ble Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the high handed action of the Respondents in seeking to demolish the petitioner’s flat bearing No.601 in the premises No.1-2-288/52, Tulasi Homes, Domalguda, Hyderabad, without considering and disposing of her regularization application dated 31.12.2010, in pursuance of notice bearing No.25/ACP/BPS/C9A/C2/GHMC/2016 dated 18.2.2016 issued by the 2nd respondent u/s 452(1) and 461(1) of Greater Hyderabad Municipal Corporation Act 1955, as illegal, arbitrary, unjust and contrary to the principles of Natural Justice and pass such other order or orders as this Hon’ble Court may be deem fit and proper in the circumstances of the case, as otherwise the Petitioner herein will suffer irreparable loss and injury.”

Sri M.R.S. Srinivas, learned counsel for the petitioner, would contend that the petitioner’s application seeking regularization of the construction is dated 31.12.2010 and that the same was submitted under the erstwhile Building Penalization Scheme. His complaint is that though the said application has been kept pending, the Greater Hyderabad Municipal Corporation has issued notice 18.02.2016 under Sections 452(1) and 461(1) of the Greater Hyderabad Municipal Corporation Act, 1955.

As the petitioner’s application under the erstwhile Penalization Scheme is stated to be pending, this Court is of the opinion that the

municipal authorities cannot ignore the same and proceed in the matter.

The writ petition is accordingly disposed of directing the Greater Hyderabad Municipal Corporation not to take any coercive action in relation to the construction made by the petitioner till the application dated 31.12.2010 filed by the petitioner under the erstwhile Building Penalization Scheme is considered and disposed of. In the event the said application has already been rejected, the order passed in that regard shall be communicated to the petitioner forthwith. If, on the other hand, the said application is still pending consideration, the Greater Hyderabad Municipal Corporation shall consider the same in accordance with law and, after giving due notice and opportunity of hearing to the petitioner, take a reasoned decision and communicate it to the petitioner. Only in the event the petitioner's request for regularization is rejected, the Greater Hyderabad Municipal Corporation shall proceed further in the matter insofar as demolition is concerned.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

Date:17.03.2016

Note:-

Issue CC by tomorrow.

B/o

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