

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 23978 of 2010

Order:

The petitioner states that the owners of the land of an extent of 384.45 sq. yards, situated in Plot No.56/A, Survey No.8 obtained building permission on 05.09.1995 and constructed the building in the year 1996. The said building is situated in Vani Cooperative Housing Society, Ferozguda village, Kukatpally. The flats constructed were sold out. The petitioner purchased one such flat bearing No.100 in stilt floor in Plot No.56/A bearing Municipal No.7-4-22/1 with a built up area of 826 sq. feet along with undivided share of 29.6 sq. yards under a registered sale deed dated 17.01.2007 from the subsequent purchaser of the original builder. Thus, the vendor and the petitioner have been in continuous possession of the said flat since 1996. The vendor's name is entered in the municipal records and municipal taxes are being paid. While so, the first respondent issued a notice on 14.03.2008 under Sections 452(2) and 636 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'). On receipt of the said notice, the petitioner submitted an application under BPS Scheme. The respondent issued proceedings on 29.10.2009 and the building was regularized. Thereafter, another notice was issued on 17.09.2010 under Section 636 of the Act in compliance with the orders of this Court in Writ Appeal No.2130 of 2005 dated 21.02.2006 directing removal of unauthorised constructions and restoration of parking space. Challenging the said order, the present Writ Petition was filed.

A counter affidavit is filed stating that the Hyderabad Urban Development Authority issued permit on 05.09.1995 and the same was released by the then Kukatpally Municipality on 09.11.1995. The said

permit enabled to construct stilt + four upper floors in plot No.56/A situated in Survey No.87 of Ferozguda, Ranga Reddy District. As per the said sanctioned plan the entire stilt floor is earmarked for parking purpose. In violation of the sanctioned plan the permit holder constructed Flat No.100 in stilt floor and sold it to the vendor of the petitioner. Further, it is admitted that the unauthorised construction was regularized pursuant to the orders in G.O.Ms.No.901, M.A. and U.D. (M1) dated 31.12.2007, but it is stated that the said regularization was contrary to Regulation No.11 of Zonal Regulation of 1981 and Regulation No.12 of Multi-storied Building Regulation of 1981 and in those circumstances only the impugned notice was issued.

Learned counsel for the petitioner submits that in view of the regularization orders issued on 29.10.2009 the impugned notices should not have been issued. He further submits that without issuing any notice under Section 452 of the Act the notice under Section 636 of the Act was issued which is contrary to law.

In the circumstances, the Writ Petition is disposed of giving liberty to the petitioner to treat the impugned notice as a notice issued under Section 452 of the Act and submit his explanation to the said notice to the respondents 1 and 2 within a period of thirty (30) days from the date of receipt of a copy of this order and on receipt of such explanation it is open to the respondents to take appropriate action in accordance with law. It is needless to observe that till final orders are passed by the respondents the interim order granted by this Court on 27.09.2010 shall continue. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 02.12.2016
Nsr

