

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 27253 OF 2009

ORDER:

This Writ Petition was filed challenging the notice dated 01-12-2009 issued by the Deputy Commissioner, Greater Hyderabad Municipal Corporation, Kukatpally Circle, asking the petitioner to show cause why the earlier order of regularization issued on 03-07-2009 cannot be cancelled under Section 450 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act').

It appears that the respondents earlier issued proceedings on 03-07-2009 regularizing and penalizing the unauthorized construction of building in deviation to the sanctioned plan in respect of house No. 154 HIG – VI situated at K.P.H.B. Colony and subsequently, the Secretary of one Tanmayee Apartment lodged a complaint, pursuant to which the respondents issued a notice on 20-10-2009 under Section 461 of the Act followed by another notice under Section 452 of the Act on 23-10-2009. Thereafter, the present letter, which is impugned in the present Writ Petition, dated 01-12-2009 was issued to the petitioner seeking her explanation as to why the earlier orders of regularization shall not be cancelled.

A counter affidavit is filed stating that the 2nd respondent earlier issued permission for construction of G + 2 residential building but a building consisting of stilt + 4 floors was constructed in deviation to the sanctioned plan. The petitioner has constructed 8 flats and sold out flat Nos. 101 and 102. Thereafter, she filed 8 applications for regularization of 8 flats under B.P.S. Scheme. Separate proceedings were issued regularizing the construction but thereafter, a complaint was received on 23-10-2009 from the neighbours.

Learned counsel for the petitioner submits that as per the provisions of the Act, the Deputy Commissioner is not having jurisdiction and it is the Commissioner alone who can take action by issuing a show cause notice. Learned counsel for the respondents could not show any provision authorizing the 2nd respondent to issue the show cause notice. However, since this is only a

show cause notice, liberty is given to the petitioner to submit an explanation to the said show cause notice and after submission of the explanation by the petitioner, the file shall be placed before the Commissioner, G.H.M.C., for taking appropriate action in accordance with law since the Commissioner is the competent authority under the provisions of the Act.

The Writ Petition is, accordingly, disposed of. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed in consequence. No order as to costs.

A.RAMALINGESWARA RAO, J.

Date: 06th December, 2016.
JSK

