

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.28400 of 2012

ORDER:

1. The petitioners claim to have purchased a house bearing No.6/150-A-4-3 under two registered sale deeds dated 20.02.1997 and 17.04.1997. Their names were mutated in the municipal records by proceedings dated 16.05.1998. A new H.No. 6-2-41 was allotted to the said house. The petitioners have been paying the property tax also. Since the vendors did not handover the permission granted by the municipal authorities, the petitioners under the mistaken impression that the building was unauthorized, submitted an application to the 2nd respondent for regularization of the building. However, when a notice was issued by the 2nd respondent on 12.07.2012, the petitioners submitted a reply on 23.07.2012 furnishing the certified copies of the documents and requested the 2nd respondent to consider the application for regularization. The 2nd respondent issued a show cause notice on 23.07.2012 to which the petitioners submitted a reply on 30.07.2012 requesting the 2nd respondent to take the earlier explanation dated 23.07.2012 as an explanation submitted to the said show cause notice. When another notice was issued on 17.08.2012, the present writ petition was filed.

2. A counter-affidavit was filed by the 2nd respondent admitting the mutation of the names of the petitioners in the assessment register vide proceedings dated 16.05.1998 and assigning a new

house No.6-2-41. It is noticed that there was no construction permission granted to the vendors of the petitioners at any point of time and the submission of the application of the petitioners for regularization itself shows the absence of such permission. In those circumstances only, the 1st petitioner was asked to produce the registered documents and municipal permission by proceedings dated 12.07.2012 and the 1st petitioner submitted a representation on 23.07.2012 for regularization of the unauthorized construction. Since the explanation was found not satisfactory, a notice was issued on 23.07.2012 under Sections 452 (1) and 461 of the Hyderabad Municipal Corporation Act.

3. It is clear from the above facts that the petitioners purchased the building under two registered sale deeds and the names of the petitioners were mutated in the municipal records by proceedings dated 16.05.1998. The petitioners submitted an application for regularization of the building and when the said application is pending, the impugned notice dated 17.08.2012 was issued under Section 452 (2) of the Hyderabad Municipal Corporation Act 1955. The petitioners already submitted a reply on 23.07.2012 and when the application for regularization is pending, the 2nd respondent could not have issued the impugned notice on 17.08.2012 under Section 452 (2) of the Hyderabad Municipal Corporation Act 1955 without disposing of the application for regularization.

4. In the circumstances, the respondents are directed to consider the application submitted by the petitioners for regularization of the premises bearing No.6-2-41 in accordance with law and depending on the same if the respondents so chooses may issue appropriate notice. If the entire building is regularized, no further action need be taken by the respondents.

5. The Writ Petition is accordingly allowed by setting aside the impugned notice dated 17.08.2012. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

01-12-2016
Gsn



A.RAMALINGESWARA RAO, J