

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Appeal No.1260 of 2016

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri Suresh Shiva Sagar, learned counsel for the appellant, Sri Pasham Krishna Reddy, learned Standing Counsel for the GHMC, and Sri M.Layeeq Khan, learned counsel for the respondent-writ petitioner and, with their consent, the Writ Appeal is disposed of at the stage of admission.

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P.No.35820 of 2016 dated 24.10.2016 whereby the Commissioner was directed to take a decision with respect to the notice issued about the building in question and to demolish the same within a period of four weeks from the date of receipt of a copy of the order.

The report, submitted to us today by the team of Engineers of the GHMC, shows that the subject property comprising of three shops is more than 60 years old; the existing roof over the shops and residential rooms is an old madras terrace; cracks can be seen at many places; a part of the rear portion of the shops appears to have collapsed and has since been replaced by zinc sheet roof; the residential rooms on the rear side of the shops are dilapidated and are in a pathetic condition; certain tentative repairs appear to have been carried out by the tenant to avoid demolition and false ceiling has been provided to the roof in three shops portions to avoid visibility of the existing madras terrace roof; white washing was done to the whole building to make it appear as a new one; dampness in the walls and roof portions was observed at many places due to seepage of rain water; and the building was old and dilapidated. Along with the report, certain photographs are enclosed, which show big cracks in the beams of the roof and in the walls.

In the light of the report of the Engineering team of the GHMC, it would be wholly inappropriate for us to permit the appellant to carry on business therein, as lives of those working in the shops and those who visit shops would be in danger. Sri Suresh Shiva Sagar, learned counsel for the appellant, would, however, request that an expert report from the Civil Engineering Department of the JNTU be obtained to ascertain the structural stability of the building and whether it is fit for occupation.

Section 456(1) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short “the Act”) requires the Commissioner, if it appears at any time to him, that the structure is in ruinous condition or likely to fall, or is in any way dangerous to any person occupying, resorting to or passing by, to require the owner or the occupier of such structure (i) to pull down, (ii) to secure, (iii) to remove, or (iv) to repair such structure or thing, and to prevent all cause of danger therefrom. As Section 456(1) confers power on the Commissioner to require the owner or the occupier to take necessary steps to prevent the structure from all dangers, we consider it appropriate to pass the following order:

The GHMC shall, within three days from today, seal the premises. It is open to the appellant, if he so chooses, to remove the goods in the said building temporarily. The building shall be sealed, as directed hereinabove, irrespective of whether the appellant removes the goods from the shops or not. The appellant shall, within one week from today, approach the JNTU requesting them to cause an inspection of the subject building and to determine its structural stability. On such an application being submitted, and on payment of the prescribed fee, the JNTU shall, within ten days from the date of receipt of the application and the prescribed fee, cause an inspection of the subject building and determine its structural stability. They shall make available copies of the report to the appellant, the GHMC and the owner of the building. If the report of the JNTU discloses that the building is fit for occupation, the keys of the building shall be handed over to the appellant herein. If, on

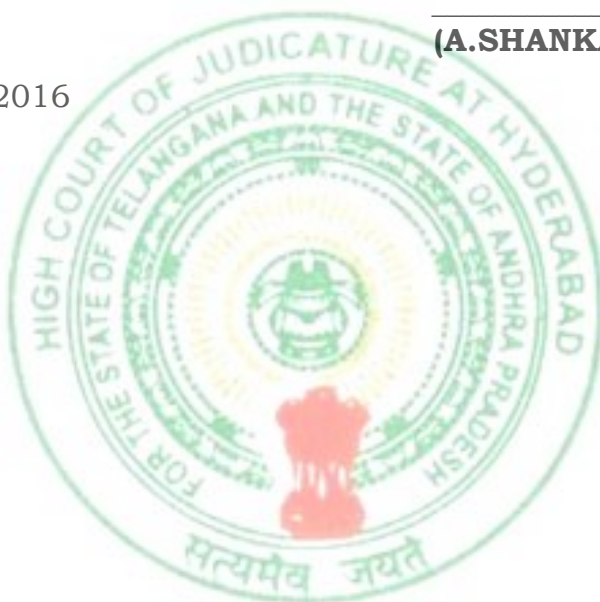
the other hand, the report of the JNTU shows that the building is unfit for occupation, the GHMC shall then take action in accordance with Section 456(1) of the Act after putting the appellant on notice and after giving him an opportunity of being heard.

With the aforesaid direction, the Writ Appeal stands disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

24th November, 2016
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(A.SHANKAR NARAYANA, J)



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Date: 24.11.2016

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