

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.5007 of 2016

ORDER:

Heard Sri R.Vara Prasad, learned counsel for the petitioner, and Sri Sampath Prabhakar Reddy, learned Standing Counsel for respondent Nos.1 to 5 - Corporation.

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

“It is prayed that this Hon’ble Court may be pleased to issue an appropriate Writ, order or direction, more particularly one in the nature of a Writ of Mandamus, to declare the action of the respondent Nos.1 to 5 in not taking action to provide minimum set-back of 1.5 mts. to 2.0 mts. as per Rule No.5 of A.P. Building Rules 2012 vide G.O.Ms.No.168 Municipal Administration and Urban Development (M.Dept) between the building of 5 floors (i.e. ground floor to 3rd floor with lot of deviation from that of the sanctioned plan and constructing 4th and 5th floor without plan) with a height of 16 mts. constructed in plot No.25/A, Sy.No.8 of Gachibowli Village, Serilingampally Mandal, GHMC-WZ, Hyderabad by the respondents’ No.6 and 7 and the plot of the petitioner covered by asbestos sheets house bearing house No.1-61/5/A situated at Plot Nos.65 and 65A, in Sy.NO.10 and 17, Rahmat Gulshan Clny, Gachibowli (V), Serilingampally (M), R.R. Dist. Hyderabad is illegal, arbitrary, and in contrary to the provisions of Sections 461, 462, 433, 451 and 452 of GHMC Act, 1955 and also violative of Article 21 of the Constitution of India, consequently direct the Respondent Nos.1 to 5 to remove the illegal construction and provide the set-back as mentioned above and pass such other Order or orders as this Hon’ble Court deems fit and proper in the circumstances of the case.”

It appears that the petitioner made representation dated 26.09.2014 to the Commissioner, GHMC, Hyderabad, the first respondent, and the same is pending consideration.

In the light of the order proposed to be passed by this Court, there is no necessity to put the unofficial respondents on notice as this Court is not venturing to adjudicate any issue on merits.

As the representation dated 26.09.2015 made by the petitioner

is yet to be acted upon, it is for the authority concerned to apply its mind to the said representation and take action thereon, if warranted, in accordance with the due procedure. In this exercise, the authority would necessarily have to give an opportunity of hearing to all the parties who would be affected by any decision taken upon the petitioner's representation. Adhering to this procedure, the first respondent shall duly consider the petitioner's representation dated 26.09.2014 and take appropriate action in the matter, if warranted, in accordance with law. This exercise shall be completed expeditiously and in any event, not later than three weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with the above directions. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

17.02.2016

GJ