

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

Writ Appeal No.447 of 2017

JUDGMENT: (per Hon'ble the Acting Chief Justice Sri Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the interlocutory order passed by the Learned Single Judge in W.P.M.P.No.580 of 2017 in W.P.No.522 of 2017 dated 06.01.2017.

The appellants herein are the petitioners in the Writ Petition and residents of a multi-storeyed complex constructed by respondents 8 and 9. It is their case that a pent house was constructed by respondents 8 and 9 despite the fact that no permission was granted, nor could permission have been granted as construction of the penthouse is prohibited under the building bye-laws.

While ordering notice, the Learned Single Judge, having noticed that respondents 8 and 9 had submitted an application for regularisation, directed the 3rd respondent to consider the objection of the petitioners before examining the application submitted by respondents 8 and 9 for regularisation of the alleged unauthorised construction. While the Learned Single Judge has, no doubt, protected the petitioners interest directing the 3rd respondent to consider their objections before examining the application submitted by respondents 8 and 9 for regularisation, the apprehension expressed by Sri P.R. Prasad, Learned Counsel for the appellants, is that their application may be rejected without assigning reasons, and the possibility of the regularisation application, submitted by respondents 8 and 9, being accepted,

and the illegal construction regularised though such regularisation is impermissible under the building bye-laws cannot be ruled out.

Suffice it to make it clear that the 3rd respondent shall, after considering the objections submitted by the petitioners, pass a reasoned order dealing with their objections, and communicate the same to the petitioners before the application for regularisation, submitted by respondents 8 and 9, is considered.

Subject to the aforesaid modification to the interim order under appeal, the Writ Appeal is disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.

RAMESH RANGANATHAN, ACJ

Dr.SHAMEEM AKTHER, J

Date:11.04.2017.

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