

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.12125 of 2017

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking to declare the high handed action of the respondents in not considering the application of the petitioners, dated 13.07.2008, made for penalization of unauthorized construction over house bearing Municipal No.1-60/30/208/136, in Plot No.208, Survey No.136, admeasuring 120 square yards, situated at Anjaiah Nagar, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, under G.O.Ms.No.901, Municipal Administration & Urban Development (M1) Department, dated 31.12.2007, as illegal and arbitrary and in violation of principles of natural justice and also against the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 and the Rules made thereunder, and consequently direct the respondents to consider the application of the petitioner, dated 13.07.2008, made for penalization of unauthorized construction under G.O.Ms.No.901, Municipal Administration & Urban Development (M1) Department, dated 31.12.2007.

2. Heard both sides and perused the material available on record.

3. It is the case of the petitioners that the petitioners are lawful owners and possessors of the house bearing Municipal No.1-60/30/208/136, in Plot No.208, Survey No.136, admeasuring 120 square yards, situated at Anjaiah Nagar, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District

and that originally, the petitioners purchased the subject property with a built up area of 100 square yards, but had later constructed a house therein without obtaining any permission and their names were also mutated in the concerned municipal records and also obtained electricity connection and paying municipal tax. Thereafter, the Government introduced the scheme of Building Penalization under G.O.Ms.No.901, Municipal Administration & Urban Development (M1) Department, dated 31.12.2017, for penalization of unauthorized constructions and the petitioners made application on 13.07.2008 by way of paying penalization charges of Rs.5,000/- and the same is pending consideration with the respondent Corporation. While so, even during the pendency of the Building Penalization Scheme application submitted by the petitioners on 13.07.2008, the respondent authorities tried to demolish the structures made over the subject property on 03.04.2017 by way of interfering with their peaceful possession and enjoyment, without issuing any prior notice to the petitioners and without following the mandatory provisions of law, but the petitioners resisted them with the help of local elders and social workers. The petitioners apprehend that there is every chance of threat of demolition of the house of the petitioners at any moment.

4. Considering the circumstances of the case and the grievance of the petitioner, without expressing any opinion on merits, this Court is of the view that the writ petition may be disposed of with the following direction:

The respondent authorities are directed to consider the application made by the petitioners, dated 13.07.2008, and pass

appropriate orders, as expeditiously as possible, in accordance with law, within a period of six (6) weeks from the date of receipt of a copy of this order. Until then, the respondent authorities are directed not to interfere with the possession and enjoyment of the petitioners over the subject property, except following due process of law.

5. With the above direction, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Date: 13th June, 2017

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RAJA ELANGO,J

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