

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.1374 of 2017

ORDER:

The petitioners obtained building permission and undertook construction. According to the respondents-Greater Hyderabad Municipal Corporation, contrary to the building permission granted to them, the petitioners made constructions over and above the permission limits. Notices under Section 452(1) and 461(1) of the Hyderabad Municipal Corporation Act (for short 'the HMC Act') were issued on 29.11.2016 alleging that if no reply was received within the time granted, further action will be taken as per Section 596 or Section 461(4) or Section 461-A of HMC Act. Thereafter notices dated 22.12.2016 under Section 452(2) of the Act were issued to the petitioners alleging that no reply to the notices dated 29.11.2016 was submitted within time granted and there by directed to remove the unauthorized constructions within three days. In this Writ Petition, the petitioners are challenging the aforesaid notices.

Petitioners allege that both notices were served on them on 4.1.2017 and since hardly any time was granted to them, these Writ Petitions are filed.

Learned Standing Counsel appearing for the respondents-GHMC raised two preliminary objections on the maintainability of Writ Petition; (1) in a single Writ Petition, seven individuals who

are independent owners, against whom independent penal proceedings are initiated cannot join together; and (2) the petitioners without filing explanation to the show cause notices issued to them cannot directly invoke the jurisdiction of this Court.

I see merit in the preliminary objections raised by the learned Standing Counsel appearing for the respondents-GHMC. It is not in dispute that notices served on the petitioners were under Sections 452 (1) and 461 (1) of the Act. Thereafter the respondents-GHMC issued further notices under Section 452(2) of the Act and thereafter notice under Section 636 would be issued. That stage has not reached. Though the petitioners had sufficient time, they did not file objections and there is no valid explanation. Thus the Writ Petition is liable to be dismissed on the ground of not availing the remedy of filing objections and challenging the show cause notices.

The Writ Petition is accordingly dismissed leaving open to the petitioners to file objections to the notice issued to them under Sections 452 (1), 461(1) and 452(2) of the Act. If no final orders are passed, third respondent shall consider the objections filed by the petitioners and pass appropriate orders by assigning reasons in support of the decision, before taking coercive action. The petitioners shall file their respective explanations within two weeks from the date of receipt of a copy of this order. If objections are filed within the time granted, no coercive action shall be taken until the decision is taken by the competent authority as directed

above. However, if no objections are received within the time granted, it is open to the respondent-GHMC to proceed further as consequence to the aforesaid notices.

Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence.

JUSTICE P.NAVEEN RAO

DATED 6th January, 2017.
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