

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.4416 OF 2011

ORDER:

The relief sought for in this Writ Petition is to declare the action of the first respondent, in interfering with the petitioners' construction activity undertaken by them as per the sanctioned plan dated 28.10.2010, as illegal and arbitrary.

This Court, by order in WPMP No.5463 of 2011 dated 25.02.2011, had directed the first respondent not to interfere with the construction undertaken by the petitioners as long as it was in accordance with the sanctioned plan dated 28.10.2010. Sri P. Radha Krishna, Learned Counsel for the petitioners, would fairly state that sanction was accorded by the Municipality only for construction of a G+2 floor building; and the petitioners had, in addition, constructed a pent-house on top of the G+2 building. When the Learned Counsel was asked as to how a pent-house could have been constructed, in the light of the interim order passed by this Court, Learned Counsel would submit that, by the time the interim order came to be passed, the petitioners were only constructing the ground floor which was not completed by then.

It is evident, from the submission of the Learned Counsel for the petitioner, that, under the protection of the interim order passed by this Court, the petitioners had constructed a pent-house above the G+2 building after the interim order was passed by this Court. As it is not in dispute that the pent-house, constructed by the petitioners, is not in accordance with the sanctioned plan, it is open to the respondents to proceed and take action in accordance with law, against the petitioner, for the illegal construction.

Sri P. Radha Krishna, Learned Counsel for the petitioners, submits that the petitioners have submitted an application seeking regularization of the unauthorised construction. The relief sought for in this Writ Petition is to direct the respondents not to interfere with the petitioners' construction as long as it is in accordance with the sanctioned plan dated 28.10.2010. Construction of the pent-house is, admittedly, not in accordance with the sanctioned plan dated 28.10.2010. The relief now sought across the bar, for regularisation of the construction illegally made by the petitioners, is extraneous to the present writ proceedings. I see no reason, therefore, to undertake an examination as to whether or not the petitioners are entitled to seek regularization of the pent-house constructed by them contrary to the sanctioned plan dated 28.10.2010. The Writ Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 15.12.2017.
MRKR

RAMESH RANGANATHAN, ACJ