

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 13213 OF 2017

ORDER :

This Writ Petition is filed questioning the proceedings dated 23.03.2017 of the 3rd respondent Assistant City Planner, whereby the Application submitted by the petitioners on 31.12.2015 in terms of G.O.Ms.No. 152 dated 02.11.2015 under 'Building Regularization Scheme' was rejected.

The case of the petitioners is that they are the absolute owners and possessors of their respective premises situated in Mosque Chamkara, Khilwath, Hyderabad. According to them, they have constructed additional floors in their buildings and later, in terms of G.O. Ms. No. 152, dated 02.11.2015, they have submitted the Application for regularization of the unauthorized constructions, but the said Application was rejected through the order impugned in this Writ Petition.

Learned counsel for the petitioners seeks to set aside the order dated 23.03.2017 on the ground that the 3rd respondent Assistant City Planner does not have any competence either to accept or reject the Applications made under G.O.Ms.No. 152, dated 02.11.2015.

Heard learned Standing Counsel for the Corporation Sri N. Ashok Kumar.

G.O.Ms. No. 152, dated 02.11.2015 has notified 'Telangana Regularization of Unauthorizedly constructed Buildings and Buildings Constructed in Deviation of the Sanctioned Plan Rules, 2015. Rule 2(2) thereof defined the word '*competent authority*', to mean the Municipal Commissioner in case of areas falling in the

Municipal Corporation and Municipal limits; the Metropolitan Commissioner, Hyderabad Metropolitan Development Authority / the Vice-Chairman of the Urban Development Authority in case of areas falling outside Municipal Corporation or Municipality in the Hyderabad Metropolitan Development Authority / Urban Development Authority area. Rule 6 of the Rules provided for scrutiny, of the Applications for Regularization and rejection / approval of the same by the competent authority.

In this case, the 3rd respondent, who is the Assistant City Planner, Circle V, South Zone, Sardarmahal, Charminar, Hyderabad, through the proceedings, dated 23.03.2017, rejected the Application of the petitioners for Regularization. The Assistant City Planner is not the competent authority under Rule 2(2). Hence, it can safely be said that the order passed by the 3rd respondent *ultra vires* the Rules notified in G.O.Ms.No. 152, dated 02.11.2015 and the same is liable to be set aside.

This Court, even on earlier occasions, has noticed that the Assistant City Planners, though do not have competence to consider the Applications for Regularization, have been issuing the proceedings either rejecting / accepting the same. In this Connection, the 2nd respondent Greater Hyderabad Municipal Corporation shall issue necessary instructions to all the field staff not to make orders in terms of G.O.Ms. No. 152, as they are not the 'competent authority'. If, on the next occasion, this Court finds any such instance, the officer concerned will be made to pay costs apart from penalty for exercising the power, which is not vested in the said authority.

The Writ Petition is accordingly disposed of. No costs.

Consequently, the miscellaneous Applications, if any shall also stand disposed of.

CHALLA KODANDA RAM, J

13th April 2017

ksld

