

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

Writ Appeal No.875 of 2017

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.18812 of 2017 dated 12.06.2017. The appellant herein is respondent No.5 in the writ petition. He feels aggrieved by the order of the Learned Single Judge in directing the 4th respondent herein (Assistant City Planner) to consider the representation of the 1st respondent-writ petitioner. regarding the unauthorised construction alleged to have been made by appellant (respondent No.5 in the writ petition), and take appropriate action in accordance with law.

Sri S.J.A.Nadeem, learned counsel for the appellant, would submit that the 1st respondent-writ petitioner had filed an identical writ petition earlier in W.P.No.8331 of 2017; the mere fact that notice was ordered in the said writ petition would not justify a subsequent writ petition being filed; and more so the order of injunction, which the appellant had obtained from the Civil Court restraining the GHMC from taking action against him, is still in force.

Sri M.A.K.Mukheed, learned counsel for the 1st respondent-writ petitioner, would submit that, while the earlier writ petition was for the construction of the building illegally made by the appellant, the subsequent writ petition relates to the construction of a ramp in the passage between the houses of the appellant and the 1st respondent; and there is, therefore, no bar for the second writ petition being filed.

Sri P.Krishna Reddy, learned Standing Counsel for the GHMC, would contend that, while permission was accorded for construction of a Ground + two floor building with stilt for parking, the appellant had constructed the entire building without leaving any setbacks; even the stilt portion of the building was converted as rooms; in addition, the

appellant had constructed steps which fall on the public road; and the slab of the first floor also extends to the main road.

The order of the Learned Single Judge only required the 4th respondent herein to take action on the 1st respondent-writ petitioner's representation in accordance with law. Suffice it to modify the order of the Learned Single Judge that any action, which the 4th respondent herein shall take, shall be only after putting the appellant and the first respondent herein on notice, and after giving them an opportunity of being heard.

Sri S.J.A.Nadeem, learned counsel for the appellant, would submit that there is an order of injunction in force. Since the main relief which can be granted in the suit itself is only for the GHMC to take action in accordance with law, the interim order of injunction would not disable the GHMC from taking action in accordance with law. The interim order of injunction cannot be understood as disabling the GHMC from taking action strictly in accordance with the provisions of the Greater Hyderabad Municipal Corporation Act, 1955.

The Writ Appeal is, accordingly, disposed of directing the 4th respondent herein to put the appellant and the 5th respondent herein on notice, give them an opportunity of being heard, and thereafter take action in accordance with law. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

07th July, 2017
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