

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

Writ Appeal No.1226 of 2016

JUDGMENT: (per Hon'ble the Acting Chief Justice Sri Ramesh Ranganathan)

Heard Sri Y.Srinivasa Murthy, Learned Counsel for the appellants, Sri Sampath Prabhakar Reddy, Learned Standing Counsel for the G.H.M.C, and Smt.G.Jyothi Kiran, Learned Counsel for the 5th respondent and, with their consent, the Writ Appeal is being disposed of.

The appellants herein have invoked the jurisdiction of this Court, under Clause 15 of the Letters Patent, aggrieved by the order passed by the Learned Single Judge in W.P.No.15613 of 2013 dated 01.11.2016. While several submissions were made on behalf of the appellants, it is wholly unnecessary for us to examine any of them, except to note that the appellants herein claim to have submitted an application, for regularisation of the construction made by them, to the G.H.M.C on 05.12.2015 within time. Sri Sampath Prabhakar Reddy, Learned Standing Counsel for the G.H.M.C, on instructions, states that the appellants' application, for regularisation, was received by the G.H.M.C on 05.12.2015.

As the appellants' application is still pending consideration before the G.H.M.C, giving effect to the order of the Learned Single Judge would result in their building being demolished even before their application for regularisation is considered. On the other hand, any direction to the G.H.M.C to consider their application behind the back of the 5th respondent would deny the 5th respondent the opportunity of putting forth his objections to the construction made by the appellants and to their application seeking regularisation of the unauthorised construction.

We consider it appropriate, in such circumstances, to modify the order under appeal, and permit the 5th respondent to put forth his objections, (to the construction made by the appellants and their application for regularisation), to the G.H.M.C within 10 days from today, making available a copy thereof to the appellants who shall, within one week from the date of receipt of a copy of the objections filed by the 5th respondent, put forth their claims before the G.H.M.C. Respondents 2 to 4 shall, within 10 days thereafter, consider the appellants' application for regularisation in accordance with law, and pass orders thereupon. Needless to state that, after such an order is passed, it is open to the G.H.M.C to proceed and take necessary action in accordance with law. It is also made clear that approval, if any, granted by the G.H.M.C in favour of the appellants in terms of the scheme, shall be subject to the result of W.P.(PIL) No.63 of 2016 wherein the validity of the scheme is itself put in issue. Any decision taken by the G.H.M.C on the appellants' application (be it grant of approval or rejection) shall be communicated to the appellants and the fifth respondent within the time stipulated hereinabove. Till an order is passed by the G.H.M.C as indicated hereinabove, no coercive action shall be taken to demolish the subject construction.

The Writ Appeal is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.

RAMESH RANGANATHAN, ACJ

Dr.SHAMEEM AKTHER, J

Date:17.01.2017.
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