

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.26144 of 2016

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, by the petitioner seeking to declare the action of the 2nd respondent in not taking action against the illegal construction of the multi-storied building at Municipal No.3-2-836 & 3-2-836/1 at Kachiguda, Hyderabad, as arbitrary and illegal and violative of the procedure contemplated under the provisions of Greater Hyderabad Municipal Corporation Act, violative of the Fundamental Right guaranteed under Article 19 of the Constitution of India.

2. Heard both sides and perused the material available on record.

3. It is the case of the petitioner that he is the resident of H.No.3-4-1040/66, Veerannagutta, Kachiguda, Hyderabad, and respondents 3 and 4 own property bearing Municipal No.3-2-836 & 3-2-836/1 at Kachiguda, Hyderabad. While so, respondents 3 & 4 are constructing multi-storied building consisting of cellar plus nine floors without any permission, which may cause hindrance to the residents of that particular area. The petitioner made representation before the 2nd respondent on 25.07.2016, but so far no action has been taken by the 2nd respondent.

4. The 2nd respondent filed counter affidavit stating that the officials of the 2nd respondent have served notice under Section 461 of the Hyderabad Municipal Corporation Act, 1955, dated

28.03.2016, to respondents 3 & 4 to stop the work, in response to which respondents 3 & 4 have submitted the copies of sanctioned plan and they have also submitted a copy of *ad-interim* injunction obtained by them in I.A.No.116 of 2016 in O.S.No.721 of 2016, on the file of the IV Junior Civil Judge, City Civil Court, Hyderabad. It is further stated that under the guise of the said *ad interim* injunction order, respondents 3 & 4 laid RCC slabs for 1st, 2nd, 3rd, 4th & 5th floors over the existing cellar, ground floor at the premises of respondents 3 & 4. It is further stated in the counter affidavit that this Court has passed interim direction in this writ petition, due to which the 2nd respondent instructed respondents 3 & 4 not to proceed with any type of work until further orders and also addressed letter, dated 12.08.2016, to that effect. Hence, the 2nd respondent prayed this Court to dismiss the writ petition.

5. The 3rd respondent also filed his counter affidavit stating that the entire construction of cellar, ground floor, mezzanine floor and four upper floors was completed long ago and that respondents 3 & 4 have also applied under Building Regularization Scheme by paying the requisite fee, for additional slab as well as the lift room and water tank including some minor deviations in the super structure and that to complete the finishing works and water and electrical fittings, respondents 3 & 4 have invested huge amounts on raw material and labour and due to the interim direction of this Court in the present writ petition, the same has come to a stand still, due to which they are suffering heavy loss for no fault of them. Respondents 3 & 4 have filed W.V.M.P.No.2203 of 2017 in the present writ petition praying to vacate the interim order passed in W.P.M.P.No.32307 of 2016 in

the present writ petition, dated 08.08.2016. The 3rd respondent further stated that the present writ petition is filed by the petitioner only to harass and blackmail them without impleading the petitioner himself in the civil suit. Hence, the 3rd respondent prayed this Court to dismiss the writ petition.

6. After perusal of the records and upon hearing the arguments of both sides, this Court is of the view that whenever there is illegal construction, it is the duty of the respondent authorities to take appropriate action, in accordance with law.

7. Considering the circumstances of the case and the grievance of the petitioner, without expressing any opinion on merits, this Court is inclined to dispose of the writ petition with the following direction:

The 2nd respondent is directed to consider the representation made by the petitioner, dated 25.07.2017, and take appropriate action, in accordance with law, regarding the unauthorized constructions alleged to have been made by respondents 3 & 4. If it is found that respondents 3 & 4 are illegally constructing the building without any permission or if respondents 3 & 4, after obtaining permission, are deviating from the permission granted, the 2nd respondent is directed to take appropriate action, in accordance with law, after issuing proper notice to respondents 3 & 4.

8. With the above direction, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO,J

Date: 12th June, 2017

KL



THE HONOURABLE SRI JUSTICE RAJA ELANGO



WRIT PETITION No.26144 of 2016

Date: 12th June, 2017

KL