

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.8729 OF 2017

ORDER:

Heard learned counsel for the petitioner; learned Government Pleader for Municipal Administration.

2. The case of the petitioners are that the 1st petitioner is the absolute owner and possessor of a house No.20-4-508, Near Moseque Chamkara, Khilwath, Hyderabad having purchased the same under a registered sale deed dated 31.08.1963 and like wise the 2nd petitioner is the owner of a house No.20-4-508/3, Near Moseque Chamkara, Khilwath, Hyderabad, having purchased the same through a registered sale dated 07.07.2014. the petitioners got constructed additional floors in their building. While things stood thus, basing on the complaint alleged to have been lodged by the 4th respondent, the 3rd respondent had issued a notice under Section 452(1) of the Hyderabad Municipal Corporation Act, 1955 (for short, "the Act") on 21.02.2017 on behalf of the 2nd respondent. It is further submitted that recently the 2nd respondent has issued a G.O.Ms.No.152 dated 2.11.2015 for regularization of unauthorized constructions. In terms of the said G.O, the petitioners applied for regularization under LRS scheme on 30.01.2016 and the same is pending with the respondents. The petitioners submitted their explanation on 27.02.2017 to the 3rd respondent. The 3rd respondent passed the impugned order even without considering the explanations submitted by the petitioners. Hence, the present writ petition.

3. Learned counsel appearing for the parties fairly submits that the issue involved in this writ petition is identical to the one decided by a Division Bench of this court in Writ Petition No.5130 of 2016 and Batch, *vide* judgment dated 18.10.2016, wherein it has been held as under:

"In case the petitioners have submitted applications for regularization on or before 01.03.2016, the respondent Municipal Corporation shall not take coercive steps to demolish the illegal structures raised by them till orders are passed on their applications for regularization, and the said orders are communicated to them. It is open to the Municipal Corporations, in such of those cases where the applications for regularization are rejected, to initiate action for demolishing the subject structures in accordance with the provisions of the GHMC Act, and the Rules and bylaws made thereunder. It is made clear that, in such of those cases where applications, seeking regularization, have not been submitted before

01.03.2016, it is open to the Municipal Corporations concerned to take action, for demolition of the illegal structures, in accordance with law.”

4. Following the same, this writ petition is disposed of directing the respondent Municipal Corporation not to take coercive steps, for demolition of the illegal structures raised by the petitioners herein, provided application, seeking regularisation under G.O.Ms.No.152 dated 02.11.2015, was submitted by them before the cut-off date specified in the said G.O or the extended cut-off date till 01.03.2016.

5. In case the petitioners have submitted applications for regularisation on or before 01.03.2016, the respondent Municipal Corporation shall not take coercive steps to demolish the illegal structures raised by them till orders are passed on their applications for regularisation, and the said orders are communicated to them. It is open to the Municipal Corporations, in such of those cases where the applications for regularisation are rejected, to initiate action for demolishing the subject structures in accordance with the provisions of the GHMC Act, and the Rules and bylaws made there under. It is made clear that, in such of those cases where applications, seeking regularisation, have not been submitted before 01.03.2016, it is open to the Municipal Corporations concerned to take action, for demolition of the illegal structures, in accordance with law.

6. The writ petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dated:13.03.2017

Note: Issue CC forthwith.

B/o.

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