

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

Writ Appeal No.124 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 of the learned Single Judge in W.P. No. 29375 of 2016 dated 16.11.2016 holding that, since the appellant-writ petitioner has already been informed that his building permission application was returned as unapproved, the question of his being permitted to undertake construction activity in the subject premises, or in seeking a direction to the respondent-Corporation not to interrupt the construction activity undertaken by the appellant-writ petitioner, would not arise until his application is processed again and approval is granted. The writ petition was dismissed leaving it open to the appellant-writ petitioner to work out his remedies, if he was aggrieved by the communication given by the GHMC by their letter dated 21.5.2016, and the further letter dated 17.6.2016.

In the letter of the GHMC dated 17.6.2016, reference is made to the appellant-writ petitioner's letter dated 26.5.2016. Sri P. Kesava Rao, learned Standing Counsel for the GHMC, would submit that the appellant's letter dated 25.5.2016 was in fact received by the Corporation on 26.5.2016, and it is in such circumstances that the letter dated 17.6.2016 refers to the appellant-writ petitioner's letter dated 26.5.2016. A copy of the said letter dated 25.5.2016 is placed before us which takes note of the fact that the letter was being submitted in reply to the documents sought for by the GHMC in their earlier letter (dated 21.5.2016). It is evident, therefore, that the appellant was informed, within 30

days of his making an application, that his application could not be considered. The appellant-writ petitioner was, therefore, not entitled to proceed with construction under the deeming provisions of the GHMC Act.

Sri Mohd. Osman Shaheed, learned counsel for the appellant, would submit that, even otherwise, the appellant is entitled to have his application examined by the GHMC in accordance with law. Learned counsel undertakes, on behalf of the appellant, that they will not resort to any further construction till they obtain approval of their sanction plan from the GHMC.

In such circumstances, we consider it appropriate to permit the appellant-writ petitioner to submit their application for sanction of building permission, complying with the relevant rules, regulations and bye laws in this regard, within three weeks from today. The GHMC shall consider the said application in accordance with law, pass orders thereon, and communicate the same to the appellant-writ petitioner within three months from the date of receipt of the appellant-writ petitioner's application for grant of building permission.

The writ appeal stands disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

2nd February, 2017

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