

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN**

**AND**

**THE HON'BLE MS JUSTICE J.UMA DEVI**

WRIT APPEAL NO.573 OF 2017

**JUDGMENT:** {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred by the third respondent in WP.No.15639 of 2009. Respondents 1 and 2 herein filed WP.No.15639 of 2009 to declare the action of the third respondent (Rajahmundry Municipal Corporation) in issuing a notice, under Section 636 of the Hyderabad Municipal Corporation Act dated 24.07.2009, to demolish the residential house of the petitioners, as illegal, arbitrary and without jurisdiction.

The respondent-writ petitioners had sought regularisation in terms of a Regularisation Scheme notified by the State Government on 15.07.2008. The contention of the appellant, both before the Learned Single Judge and before us, is that the 2008 Scheme applies only to constructions made prior thereto; and since the respondent-writ petitioners had commenced construction thereafter, the benefit of the said G.O. could not be extended to them. During the pendency of this Writ Petition, the State Government issued G.O.Ms.No.128 dated 22.05.2015 providing for a Scheme for regularisation of unauthorised constructions. Among the requisites, for the regularisation application to be considered, is for fire extinguishers/equipment, water pipeline and other accessories to be provided as stipulated under the Andhra Pradesh Fire Services Act and Rules.

By the order under appeal, the learned Single Judge permitted the respondent-writ petitioners to erect fire extinguishers/equipments, and also to construct water-pipelines in the subject building as per G.O.Ms.No.128 dated 22.05.2015; and, on such erection, the respondent-authorities were directed to consider the explanation of the petitioners dated 22.07.2009 on the basis of G.O.Ms.No.128 dated 22.05.2015, and pass appropriate orders.

Sri G.Anand Kumar, learned counsel for the appellant-third respondent, submits that the requirements of G.O.Ms.No.128 dated 22.05.2015 is distinct and different from that of the 2008 Regularisation Scheme; apart from the requirement of providing for fire extinguishers/equipment, and water pipelines, there are several other deficiencies in the subject building which would disentitle the respondent-writ petitioners from seeking regularisation; and the order of the learned Single Judge be modified permitting the appellant-third respondent to file a detailed representation to the Commissioner, Rajahmundry Municipal Corporation pointing out the deficiencies in the construction, and to explain why the respondent-writ petitioners were not entitled for regularisation even under G.O.Ms.No.128 dated 22.05.2015, and that the Commissioner be directed, while considering the petitioners' request for regularisation in terms of G.O.Ms.No.128 dated 22.05.2015, to also consider the appellant-third respondent's objections thereto.

Both Sri G.Krishna Murthy, learned counsel for the respondent-writ petitioners and Sri A.Pandu Ranga Rao, learned

Standing Counsel for Rajahmundry Municipal Corporation, readily agree for such an order to be passed.

We consider it appropriate, in such circumstances, to modify the order of the learned Single Judge, and permit the appellant-third respondent to submit a representation to the Commissioner, Rajahmundry Municipal Corporation pointing out the deficiencies in the subject building; and the reasons why the request of the respondent-writ petitioners, for regularisation in terms of G.O.Ms.No.128 dated 22.05.2015, should not be acceded to. Sri G.Anand Kumar, learned counsel for the appellant-third respondent, states that such a representation would be submitted within two weeks from today.

In case such a representation is filed within the aforesaid period of two weeks, the Commissioner, Rajahmundry Municipal Corporation shall examine the respondent-writ petitioners request for regularisation in terms of G.O.Ms.No.128 dated 22.05.2015, in the light of the objections raised by the appellant-third respondent in her representation, pass a reasoned order in accordance with law, and communicate his decision both to the appellant and the respondent-writ petitioners.

With the aforesaid modification to the order under appeal, the Writ Appeal is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

**(RAMESH RANGANATHAN, ACJ)**

**(J.UMA DEVI, J)**

17<sup>th</sup> August 2017  
RRB