

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN**  
**AND**  
**THE HON'BLE Mr. JUSTICE ABHINAND KUMAR SHAVILI**

**Writ Appeal No.1598 of 2017**

**Judgment:** (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The appellant herein is the 5<sup>th</sup> respondent in the writ petition. She has filed this appeal complaining that the order under appeal was passed without even putting her on notice, and without giving her an opportunity of being heard. Ms. Hema Jaiswal, learned counsel for the appellant, would submit that the Writ Petition was filed by the 1<sup>st</sup> respondent-writ petitioner, who is the appellant's neighbour; the learned Single Judge had, without even giving the appellant an opportunity of being heard, directed the respondents to take action against the appellant; and even if there are any deviations in the construction, the appellant would make an application seeking regularisation in terms of Section 455-A of the Greater Hyderabad Municipal Corporation Act, 1955 (hereinafter referred to as "the GHMC Act"). Learned counsel would submit that the appellant has filed an application before the IV Junior Civil Judge, City Civil Court, Hyderabad seeking permission to withdraw O.S. No. 1120 of 2017; and as the said application would be withdrawn, there is no bar for the GHMC to consider the appellant's application for regularisation and, thereafter, from taking action in accordance with law.

While Sri B. Srinivas, learned counsel for the 1<sup>st</sup> respondent-writ petitioner, would submit that mere filing of an application would not suffice, and the order of status-quo passed by the Court below would continue to remain in force, we are satisfied that, in the light of the solemn undertaking given to us by Ms. Hema Jaiswal, learned counsel appearing on behalf of the appellant, that the appellant would withdraw the suit in O.S. No. 1120 of 2017, and as a copy of the affidavit filed in support of the application seeking withdrawal of the Suit has also been placed for our perusal, we are satisfied that the apprehension, expressed on behalf of the 1<sup>st</sup> respondent-writ petitioner, is unfounded. Suffice it to record the undertaking of Ms. Hema Jaiswal, learned counsel for the appellant, that the suit would be withdrawn on or before 4.11.2017.

Section 455-A of the GHMC Act, enables the Commissioner to regularize constructions made without obtaining a sanctioned plan, subject to fulfilment of all the conditions therein, and this power under Section 455-A is distinct from the scheme of regularization prescribed under Section 455-AA of the GHMC Act.

Ms. Hema Jaiswal, learned counsel for the appellant, states that an application for regularization under Section 455-A would be filed, after complying with all the conditions stipulated therein, within two weeks from today. In case such an application is filed, the Commissioner, GHMC shall consider the same, and pass orders thereupon in accordance with law within three weeks thereafter. Till orders are so passed by the Commissioner, the respondents shall not take any coercive steps to demolish the construction made by the appellant. It is made clear that, in case the appellant does not submit an application for regularization under Section 455-A of the GHMC Act after fulfilling the conditions prescribed therein within two weeks from today, it is open to the GHMC to proceed and take action in accordance with law as, on the withdrawal of the Suit, there would be no court order preventing them from doing so.

The order under appeal is modified to the extent indicated hereinabove and the Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

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**(RAMESH RANGANATHAN, ACJ)**

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**(ABHINAND KUMAR SHAVILI, J)**

31<sup>st</sup> October, 2017

Note:  
Furnish c.c. in two days.  
b/o  
pnb

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Date: 31.10.2017

**pnb**