

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.41778 of 2017

ORDER:

This writ petition is filed seeking the following relief:

"..to issue a writ, order or direction particularly one in the nature of writ of Mandamus declaring the action of the respondents 2 to 5 in not taking action against the illegal construction made in the open spaces left to the LIG Block No.152, Flat No.12 under Phase- III, situated at Kukatpally, Housing Board (KPHB), Hyderabad without obtaining permission and in contrary to the Building Bye laws and Provisions of Greater Municipal Corporation Act, 1955, as illegal and arbitrary and consequently direct the respondents 2 to 5 to take action against illegal construction made in open the spaces left to LIG Block No.152, Flat No.12 under Phase-III, situated at Kukatpally, Housing Board (KPH13), Hyderabad and to pass such other order or orders may deem fit and proper in the circumstances of the case."

2. Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development appearing for the first respondent, learned Standing Counsel for GHMC appearing for respondents 2 to 5 and learned Standing Counsel appearing for the sixth respondent. Perused material record.

3. The submissions and grievance of the writ petitioner are as follows: 'The petitioner is the owner and possessor of the second floor of Flat No.12, LIG Block No.152, Phase III situated at Kukatpally Housing Board, Hyderabad, having purchased the same from the sixth respondent under a registered sale deed, dated 13.03.2007. The seventh respondent is the purchaser of ground and first floors of the said Flat No.12, LIG Block No.152. The vendor of the seventh respondent made some constructions in the open space left to LIG Block No.152, without maintaining set backs, upto the second floor. The seventh respondent is continuing to proceed with the said constructions. On enquiries, the petitioner came to know that neither the vendor of the seventh respondent nor the seventh respondent obtained building permit for making such constructions. The said constructions are illegal and unauthorized. Despite a representation, dated 03.11.2017, given by the petitioner, the respondents are not taking any action; and, therefore, the writ petition is filed.'

4. Learned Standing Counsel for GHMC appearing for respondents 2 to 5 would submit that on the receipt of the representation of the petitioner, a notice under Section 452(1) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act') was issued, on 11.12.2017, and that the said notice was served upon the seventh respondent, on 13.12.2017, and accordingly, action is initiated and that respondents 2 to 5 would proceed further in the matter, in accordance with procedure established by law, and take appropriate action as per law.

5. Learned counsel for the petitioner would submit that in view of the submissions of the learned Standing Counsel, the writ petition may be disposed of with appropriate directions and by fixing a time frame.

6. Recording the submissions, the writ petition is disposed of directing respondents 2 to 5 authorities to take further action in accordance with procedure established by law, pursuant to the notice, dated 11.12.2017, issued under Section 452 (1) of the Act, as expeditiously as possible, preferably, within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken thereon to the petitioner within a week thereafter. It is made clear that if the concerned officer of the GHMC, on inspection, notices that the constructions, if any, are being made without any permit or in violation of the building permit, the respondents 2 to 5 shall forthwith stop such illegal and unauthorized constructions, however, in strict accordance with procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

M. SEETHARAMA MURTI, J

Date: 15.12.2017
Note: Issue CC in four days
B/o
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