

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.4212 of 2018

ORDER:

Heard the learned counsel for petitioner and Sri Sampath Prabhakar Reddy, learned Standing Counsel offers to appear from oral instructions for the respondents and perused the prayer in the writ petition with supporting affidavit and other material on record. The prayer in the writ petition is as follows:

“to issue an appropriate writ, order or direction more in the nature of Mandamus, declaring the action of respondent No.2 in directing to remove the construction within 24 years through impugned order styling the same as notice issued under Section 636 of the G.H.M.C. Act in Order/ Notice No.88/ TPS/ C18/ GHMC/ 2018 dated 06.02.2018 of respondent No.2 even without considering the explanation submitted on 04.12.2017 to the notice issued under Sections 452(1) & 461(1) of the Act dated 23.11.2017 as illegal, arbitrary and is in violation of established judicial precedents and consequently set aside the same with a direction to consider for regularization of the structures in exercise of the powers under Section 455-A of the Hyderabad Municipal Corporation Act and pass such other order or orders as are deemed fit and proper.”

2. In fact, undoubtedly the petitioner has been given notice way back under Sections 452(1) and 461(1) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, ‘the Act’) on 23.11.2017 about the deviation and to remove the deviation within seven days, if not to show cause as to why it shall not be removed and the petitioner submitted a reply dated 04.12.2017 saying for vastu purpose shed raised

on South East side it is using for the car parking purpose. It is subsequent to that the impugned notice under Section 636 of the Act was issued on 06.02.2018 to remove the unauthorized construction.

3. It is the submission of the Standing Counsel from the oral instructions that the shopping complex practically constructed by pretending as if sheds for parking of the cars and it is a seven shuttered shopping complex unauthorisedly by using the set back space. On the other hand, it is the submission of learned counsel for the petitioner that the entire area is not covered by set back space and some area is likely to be regularized by invoking Section 455 of the Act.

4. Having regard to the above, the petitioner is once again given liberty to submit what is the area to be regularized and in the remaining what he can cover the set back space to remove with an undertaking. Thereafter, after hearing, appropriate orders afresh may be passed by the respondents within three (3) weeks from the date of receipt of a copy of this order, failing which the respondents can proceed according to law. In the meantime, the petitioner shall not allow anybody to occupy any of the said construction nor making further improvements or further constructions, but for to maintain the existing *status quo* as on today.

With the above observations, this Writ Petition is disposed of. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

08.02.2018
MVA

