

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.4256 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 a writ, order or direction particularly one in the nature of Writ of Mandamus declaring the notice No.260/ TPS/ C18/ GHMC/ 2018 dated 06.02.2018 issued by respondent No.3 demolishing the structures at premises bearing H.No.8-1-260 situated at Shaikpet, Hyderabad of the petitioner within 24 hours as the same is illegal and arbitrary and contrary to the Greater Hyderabad Municipal Corporation Act, 1955 and consequently set aside the notice No.260/ TPS/ C18/ GHMC/ 2018 dated 06.02.2018 issued by respondent No.3 and to pass such other order or orders may deem fit and proper in the circumstances of the case.”

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 30.10.2017 about the unauthorized construction. Aggrieved of the same, the petitioner approached the City Civil Court and obtained *ad interim* injunction restraining the respondents not to interfere with the subject property and later the said injunction order is vacated. Thereafter,

respondent No.3 issued a notice dated 20.01.2018 under Section 452(2) of the Act to show cause within three days as to why it shall not be removed and the petitioner submitted a reply dated 23.01.2018 stating that with a view to construct new building she applied permission for ground and first floor, though he made construction of ground floor only. 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. The fact that the earlier premises was age old and unfit for human dwelling, which made the petitioner to construct, makes no difference for her obtaining of the plan and getting approval, if any, if submitted as per the Rules with necessary set backs including as contemplated by Section 455 of the Act for any regularization of the deviations other than set back space and the like.

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 she 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

