

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Contempt Case No.1025 of 2018

ORDER:

W.P.No.44858 of 2017 is pending and pending disposal there is interim order dated 24.01.2018 passed by this Court, which reads as under:

“Notice before admission.

Learned counsel for the petitioners is permitted to take out personal notice to the unofficial respondent No.3 by registered post with acknowledgment due and file proof of service.

While granting time to respondent Nos.1 & 2 represented by learned Standing Counsel Sri Ashok Kumar, who offers to appear and to get instructions and also to the learned Government Pleader for Municipal Administration for respondent No.4, by posting the matter to 21.02.2018, there shall be interim direction of existing status quo regarding the construction by the 3rd respondent to be seen by respondent Nos.1 & 2 meantime.”

2. It is the present Contempt Case filed by the writ petitioners alleging not only the so-called inaction of the official respondents, but also with the say that the respondent No.3 besides proceeding with construction the respondents 1 & 2 failed to stop, and that even the petitioners issued legal notice to the respective counsel and to respondent No.3 and further stated even after receipt of said contempt notice, respondents 1 & 2 failed to stop the illegal construction made by respondent No.3.

3. It is the sum and substance of the paragraphs 2 to 7 of affidavit anywhere therein it is only stated pursuant to the *status quo* order what is the illegal construction specifically made by the unofficial

respondent No.3, that was allowed by the official respondents 1 & 2 to complain violation of the *status quo* order.

4. In third line of Paragraph No.7 of the affidavit, it is mentioned that the respondent No.3 not only failed to maintain the setback on all sides, but also illegally extended the balconies in the common areas and also constructing floors above the second floor violating the plan permit bearing No.3/CA1/09242/2017 dated 27.09.2017. So far as the construction above the second floor is concerned, it is admitting by the respondents 1 & 2 of noticed and demolished. Photos also filed showing in due respect to the order of this Court having noticed the further construction they demolished the same. What the Contempt petitioners/writ petitioners stated in lines 3 to 5 of Paragraph No.7 of the affidavit filed in support of the Contempt Case is respondent No.3 failed to maintain the setback on all sides, but also illegally extended the balconies in the common areas. It is not specifically stated the same were subsequent to the *status quo* order by violation so far as the respondents 1 & 2 are concerned to proceed for contempt against them of the alleged disobedience of the *status quo* order.

5. In fact, the counter of respondents 1 & 2 also speaks about a perusal of the original plan sanctioned with the construction shows the deviation. It is their say that it is not subsequent to the *status quo* order. Once such is the case, once what the above second floor third floor constructed was demolished, there is no further action that can be taken.

6. Accordingly, this Contempt Case is closed which is prejudice to the contest of the parties in the main Writ Petition. Needless to say it is the duty of the respondents 1 & 2 to implement the interim order so long it is in force in the pending Writ Petition.

Dr. B. SIVA SANKARA RAO, J

24.08.2018
MVA

