

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

Writ Appeal No.998 of 2016

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.38342 of 2015 dated 25.11.2015. Respondents 4 to 6 herein filed the said Writ Petition seeking a mandamus to declare the action of the official respondents therein, in not considering their representations as per the provisions of the Hyderabad Municipal Corporation Act, as arbitrary and illegal; and for a consequential direction to pass appropriate orders on their representations.

In the order under appeal, the Learned Single Judge observed that a private civil dispute between the parties was sought to be given the garb of a public law violation by the respondents-writ petitioners; the stand taken in the writ petition by the respondents-writ petitioners was in conflict with the allegations made by them in their representations; and as the civil dispute was the main motive behind the respondents-writ petitioners' filing the writ petition, he was not inclined to entertain the writ petition. However, having said do, the Learned Single Judge directed both the Commissioner and the Zonal Commissioner of the GVMC to examine whether the appellants herein had constructed the building in accordance with the sanctioned plan; and, if not, to initiate appropriate action against the illegal constructions strictly in accordance with the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 (for

short “the Act”). The Writ Petition was dismissed with the aforesaid directions.

Sri S.Ashok Anand Kumar, learned counsel for the appellants, would submit that, having noted that a purely private dispute was sought to be given the colour of a public law violation, and having noticed the inconsistencies in the stand taken by the respondents-writ petitioners, in the writ petition filed by them on the one hand and the representations filed by them on the other, the Learned Single Judge, while dismissing the writ petition, ought not to have directed the GVMC to examine whether the construction was in accordance with the sanctioned plan, and to initiate appropriate action if there were illegal constructions; the respondents-writ petitioners ought to have been non-suited on the short ground that they did not approach the Court with clean hands; and the direction to the GVMC was wholly unwarranted.

Sri S.Lakshminarayana Reddy, learned Standing Counsel for the GVMC, would submit that, independent of this writ petition, the GVMC has already issued Section 452 notice on 08.03.2016 to which the appellants have submitted their reply on 26.03.2016 admitting certain deviations which they claimed to be minor.

It needs no emphasis that, irrespective of the aforesaid order passed in the writ petition, it is always open to the GVMC to take action in accordance with the provisions of the Act, the Rules, Regulations and the Bye-laws made thereunder. As it is brought to our notice that the GVMC has already initiated action for unauthorised construction by the appellants, independent of these proceedings, it matters little whether or not the Learned Single

Judge had issued the aforesaid directions in the writ petition. We see no reason, therefore, to interfere with the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

09th April, 2018
JSU



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Date: 09.04.2018

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