

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.22153 of 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed seeking verbatim the following relief/ s:

'..to issue an order, direction or Writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondent No.2 in issuing proceedings No.293/ACP/C18/GHMC/2018, dt.25-06-2018 issued by the respondent No.2, Deputy Commissioner, calling upon the petitioner to pull down/remove the unauthorized construction, as illegal, void, arbitrary, unjust and against the provisions of Hyderabad Municipal Corporation Act, 1955, and the same is affecting the rights of the petitioners under articles 14, 19, 21 and 300-A of the Constitution of India and set aside the proceedings of the respondent No.2 vide proceedings No.293/ACP/C18/GHMC/18 dated 25-06-2018 issued by the respondent No.2, Deputy Commissioner, calling upon the petitioner to pull down/remove the unauthorized construction, in the interest of justice and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case.'

I have heard the submissions of Sri Chetluru Srinivas, learned counsel appearing for the petitioner, and of Sri L. Venkateswara Rao, learned standing counsel, appearing for the respondents 1 to 3. I have perused the material record.

Having heard the submissions and perused the pleadings and documents particularly the copies of the sale deed of the petitioner & the regularisation proceedings obtained by the vendor of the petitioner and the impugned notice, this Court finds that insofar as stilt plus two upper floors and third floor, the construction is regularised and, therefore, the notice, which is impugned in the said regard, is unsustainable.

However, in the impugned notice, there is also a reference to a shed on the 4th floor, which was said to have been constructed without prior permission

as required under the provisions of the Hyderabad Municipal Corporation Act, 1955.

Learned Standing Counsel submits that the petitioner is not entitled to make such construction on the 4th floor and that, therefore, the notice to that extent is valid and that the petitioner is required to remove the said construction on the 4th floor.

Learned counsel for the petitioner submits that insofar as the alleged construction on the 4th floor is concerned, the petitioner, in its reply, dated 04.05.2018, which is also referred to in the impugned notice, specifically stated that, on the 4th floor, steel poles have been erected for installation of solar panels only and not for any other purpose. He would further submit that there is no shed as alleged and that if any such shed is there on the 4th floor, as alleged, the petitioner is prepared to remove the same. However, he reiterates that no shed is laid on the 4th floor.

The submission of the learned counsel for the petitioner that the shed, if any, constructed, as alleged, on the 4th floor will be removed by the petitioner is recorded.

The Writ Petition is, accordingly, disposed of setting aside the impugned notice. It is made clear that in the event the respondent authorities find that the shed is constructed as alleged and is not removed as now submitted on behalf of the petitioner, they shall be at liberty to proceed in the matter in strict accordance with the procedure established by law. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

28.06.2018

Note: Issue CC today.

{B/o}

VjI