

THE HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.18366 of 2016

ORDER:

Heard the learned counsel for the petitioner and the learned Standing counsel for the 2nd respondent-Corporation.

The prayer in the writ petition is as under:

“The Hon’ble Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the notice in U.C.No.17/2016/Circle-V, dated 19.02.2016 of the 2nd respondent as illegal, null, void and arbitrary and consequently direct the respondents not to interfere with the possession and enjoyment of the petition schedule property and to pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

The facts of the case in the writ petition are that the petitioner had purchased Flat No.2B in the premises bearing Door No.75-1-24/3/1, Sanguine Plaza situated at Prakash Nagar, East Godavari District in the year 2000 under a registered Sale Deed and since then he has been in possession and enjoyment by paying the property tax. However, on 5.2.2016, a notice was issued under Section 452 and 461 of the HMC Act, 1955, seeking explanation within seven days from the petitioner that he made unauthorized construction in the parking area. Immediately, the petitioner has submitted an explanation on 10.2.2016 stating that he has not made any new construction and the structure is in existence from 1997 onwards. However, the 2nd respondent-Corporation on

19.2.2016 issued notice in U.C.No.17/2016/Circle-V under Section 636 of the Hyderabad Municipal Corporation Act, 1955 to remove the structure within three days from the date of receipt of the order. The petitioner also submitted another explanation dated 21.2.2016. But without considering the said explanation, the impugned proceedings have been issued.

Learned Standing counsel appearing for the 2nd respondent-Municipality would submit that the explanation said to have been given by the petitioner does not contain the endorsement and, therefore, the Corporation was constrained to issue the impugned proceedings.

Be that as it may, it is the specific case of the petitioner that the structure in question is in existence from the year 1997 onwards and he has purchased the same under a registered sale deed for valid consideration. That being so, when the petitioner has given explanations dated 10.2.2016 and 21.2.2016, the same can be considered and appropriate orders may be passed. Therefore, this Court is of the opinion that the writ petition can be disposed of by giving a direction to the 2nd respondent-Corporation to consider the explanations given by the petitioner and pass appropriate orders.

Accordingly, the Writ Petition is disposed of directing the 2nd respondent-Corporation to consider the explanations given by the petitioner dated 10.2.2016, 21.2.2016 as well as 16.4.2016 pursuant to the show cause notice dated 5.2.2016 issued under Section 452 and 461 of the Hyderabad Municipal Corporation Act, 1955, and pass appropriate orders within a period of six weeks from the date of receipt of copy of this order. However, it is made

clear that until the said orders are passed pursuant to the above said direction, no coercive steps should be taken.

Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE P.KESHA RAO

Date: 23/04/2018

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