

THE HONOURABLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.33102 of 2016

ORDER:

The prayer sought for in this writ petition is as under:

“....to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus by declaring the action of the 2nd respondent in contemplating to demolish the petitioner’s house and structures constructed in bearing Door No.28-24-34, Hussain Saheb Street, Arandal Peta, Buckinghampet, Vijayawada City, Krihsna District on the reason that no permission is taken from the 2nd respondent municipality for the construction of 2nd floor without following due procedure established by law, as illegal, irregular, irrational, without any authority of law, violative of provisions of the Greater Hyderabad Municipal Corporations Act, Andhra Pradesh Building Rules, 2012 and Andhra Pradesh Urban Development Authority Act, 1975 and rules framed thereunder and offends Articles 14, 21 and 300-A of Constitution of India and consequently direct the 2nd respondent not to interfere in any manner into the possession and enjoyment of petitioner’s house and site property”.

Heard the learned counsel for the petitioner as well as the learned Standing Counsel for the respondent No.2-Corporation.

The facts of the case are that the petitioner is the absolute owner and possessor of residential house and site bearing Door No.28-24-34 in Block No.13, comprising in an extent of 106 sq.

yards, situated at Hussain Saheb Street, Arandal Peta, Buckinghampet, Vijayawada City, Krishna District. The said property was purchased by him under registered sale deed dated 4.6.1988 bearing document No.1715 of 1988. Subsequent to his purchase, his name is also mutated in the municipal records. Since the said house is in dilapidated condition, the petitioner demolished the old structure and applied for permission for construction of new house i.e., ground plus first floor. Accordingly, the permission was granted. But instead of constructing ground plus first floor in compliance with the permission granted, the petitioner has constructed second floor over and above permitted portion. He also stated that he has deposited a sum of Rs.40,000/- towards penalty for regularization of the second floor. Though the Corporation has issued a notice under Section 452 of the Hyderabad Municipal Corporation Act, 1955, no further action has been taken. However, the officials of the respondent No.2-Corporation are physically coming into the premises and threatened to demolish the house. Therefore, the writ petition is filed.

The respondent No.2-Corporation filed counter affidavit stating that the petitioner has not submitted any explanation nor complied with the notice dated 17.5.2016. On the other hand, during the pendency of the writ petition, the petitioner has unauthorisedly completed the building and occupied the same. Therefore, he submits that there are no merits in the writ petition and the same is liable to be dismissed.

A perusal of the material on record and after hearing the submissions of both the counsel, this Court feels that since the Statutory Notice under Section 452 of HMC Act, 1955 is already issued, consequent proceedings shall go on before arriving at the conclusion in the matter. In the interest of justice, this Court directs the petitioner to submit his explanation to the notice dated 17.5.2016 issued under Section 452 of HMC Act, 1955 within a period of three weeks from today and the respondent No.2-Corporation is directed to consider the same and take appropriate action within a period of six weeks thereafter. Till orders are passed, the respondent No.2-Corporation should not take any coercive steps for demolition of the premises bearing Door No.28-24-34, Hussain Saheb Street, Arandal Peta, Buckinghampet, Vijayawada City.

With the above said observations, the writ petition is disposed of. No order as to costs.

Miscellaneous petitions pending if any, shall stand closed.

JUSTICE P. KESHA RAO

Date: 20.04.2018

Note: Issue CC in one week

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WRIT PETITION No.33102 of 2016

Date: 20.4.2018

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