

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.34563 of 2018

ORDER:

Heard learned Counsel for the petitioners and Sri Sampath Prabhakar Reddy, learned Standing Counsel for the respondent-Municipal Corporation.

Earlier, when the Commissioner of the respondent-Municipal Corporation cancelled the building permission under Section 450 of the Greater Hyderabad Municipal Corporation Act, 1955, vide proceedings No.5961/TPS/HO/GHMC/2018-2/611, dated 23.08.2018, the petitioners herein approached this Court by way of filing W.P.No.31333 of 2018. This Court allowed the said Writ Petition by way of an Order, dated 30.08.2018, setting aside the said Order of cancellation and remitted the matter back to the respondent-Municipal Corporation for fresh consideration and for passing appropriate Orders.

Now, by way of the impugned Notice bearing No.5961/5962/TPS/HO/GHMC/2018-2/611, dated 19.09.2018, the Deputy Commissioner/R.4 herein requested the petitioner herein to attend for hearing proposed on 27.09.2018 in his Chambers at L.B.Nagar. The petitioners assailed the said notice on the ground that Section 450 of the Greater Hyderabad Municipal Corporation Act, 1955, enables and authorizes only the Commissioner of the Municipal Corporation to initiate action and to pass appropriate Orders under the said provision of law.

In elaboration, it is submitted by the learned Counsel for the petitioners that the very notice issued by R.4 is totally one without jurisdiction. In this context, it may be appropriate to refer to the

provision of Section 450 of the Greater Hyderabad Municipal Corporation Act, 1955, which reads as under:-

“Power of Commissioner to cancel permission on the ground of material misrepresentation by applicant:- If at any time after permission to proceed with any building or work has been given, the Commissioner is satisfied that such permission was granted in consequence of any material misrepresentation or fraudulent statement contained in the notice given or information furnished under Section 428 or 433 or if the further information if any, furnished, he may cancel such permission and any work done thereunder shall be deemed to have been done without his permission.”

A reading of the above provision of law, in vivid and clear terms, discloses that the said provision of law enables the Commissioner of the Corporation and not other Officers to take action under the said provision of law. Therefore, on this ground alone, the impugned Notice is liable to be set aside.

Accordingly, the Writ Petition is allowed, setting aside the impugned notice bearing No.5961/5962/TPS/HO/GHMC/2018-2/611, dated 19.09.2018. However, it is open for the respondent-Municipal Corporation to proceed in accordance with law.

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

JUSTICE A.V.SESHA SAI

Date :26.09.2018
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