

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.36411 of 2018

ORDER:

A notice bearing No.652/1/15/ACP/C5/GHMC/2016-2018, dated 15.09.2018, of the Commissioner/R.2 herein directing the petitioner herein to remove the deviations said to have been made against the sanctioned plan and the alleged unauthorised constructions of the 4th and 5th floors and to close the unauthorized sub-cellar at premises bearing No.15-1-652 to 656 situated at Feelkhana, Hyderabad, within three days, is under challenge in the present Writ Petition.

2. Admittedly, the petitioner herein along with certain others instituted O.S.No.1279 of 2016 before the Court of the IV-Judicial Civil Judge, City Civil Court, Hyderabad, for permanent injunction. Along with the said suit, they also filed I.A.No.200 of 2016, wherein the learned Junior Civil Judge granted interim Order under the provisions of Order 39 Rules 1 and 2 C.P.C., restraining the respondent-Municipal Corporation from demolishing any part of the schedule property either in whole or in part. Thereafter, the said suit came to be dismissed for default by the learned Junior Civil Judge. Subsequently, on an application, vide I.A.No.704 of 2018, filed by the petitioner along with others, seeking restoration of the suit under the provisions of Order 9 Rule 9 C.P.C., the learned Junior Civil Judge restored the suit, subject to paying costs of Rs.500/-. According to the learned Counsel for the petitioner, the said amount was already paid by his client.

3. It is also brought to the notice of this Court, during the course of hearing, by the learned Standing Counsel that earlier, the petitioner herein filed W.P.Nos.32748 of 2018 and 33993 of 2018.

4. A perusal of the affidavit filed in support of the Writ Petition does not disclose anything with regard to filing of the said Writ Petitions before this Court and the Orders passed thereon. It is also brought to the notice of this Court that the petitioner also filed W.A.No.1282 of 2018 before this Court against the Orders passed in W.P.No.32748 of 2018. The Writ affidavit also does not disclose anything about filing of the same. The apprehension of the petitioner, in the present Writ Petition, is that the respondent authorities may remove the structures raised by the petitioner herein. According to the learned Counsel for the petitioner, the amount, as directed by the Court of the IV-Junior Civil Judge while restoring the suit has already been paid by the petitioner.

5. If that being so, leaving it open for the petitioner herein to sort out the issue before the Court of the IV-Junior Civil Judge, City Civil Court, Hyderabad, in the pending suit, the Writ Petition stands disposed of.

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

8th October, 2018
smr

A.V.Sesha Sai, J