

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 44068 of 2018

ORDER:

- 1) Heard.
- 2) The present Writ Petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in issuing show cause notice No.219/TPS/GHMC/C21/2018, dated 03.11.2018 and 16.11.2018, under Sections 461(1), 452(1) and (2) of GHMC Act, pending consideration of the building penalization/regularization application filed by the petitioner, in respect of the structures consisting of ground + four upper floors with a pent house on the fifth floor, situated at Plot No.280, admeasuring 333 square yards, Khanamet, Serilingampally, R.R.District, as illegal and arbitrary.
- 3) Learned counsel for the petitioner would submit that issue involved is covered by the judgment of this Court in W.P.No.5130 of 2016 and batch.
- 4) Learned Standing Counsel for Corporation would submit inspite of building penalization application made by the petitioner is pending, the petitioner is proceeding with construction, without any approval. Hence, steps are being taken for removal of constructions made, in accordance with law. Learned Counsel for the petitioner denied the contention

of the Standing Counsel stating that no constructions are being made by the petitioner in the subject property.

5) It would be appropriate to refer to relevant portion of the common order passed by this Court on W.P.No.5130 of 2016 and batch, which reads as under:

“As we have modified the interim order passed earlier in W.P.(PIL).No.63 of 2016, dated 20.06.2016, today i.e., 18.10.2016, we consider it appropriate to dispose of all these writ petitions, in terms of the said order, directing the concerned Municipal Corporations not to take coercive steps, for demolition of the illegal structures raised by the petitioners herein, provided applications, seeking regularization under G.O.Ms.No.152, dated 02.11.2015, were submitted by them before the cut-off date specified in the said G.O., or the extended cut-off date till 01.03.2016.

In case the petitioners have submitted applications for regularization on or before 01.03.2016, the respondent Municipal Corporation shall not take coercive steps to demolish the illegal structures raised by them till orders are passed on their applications for regularization, and the said orders are communicated to them. It is open to the Municipal Corporations, in such of those cases where the applications for regularisation are rejected, to initiate action for demolishing the subject structures in accordance with the provisions of the GHMC Act and the Rules and bylaws made thereunder. It is made clear that, in such of those cases where applications, seeking regularization, have not been submitted before 01.03.2016, it is open to the Municipal Corporations concerned to take action, for demolition of the illegal structures, in accordance with law”.

6) From a reading of the said order, it is clear that if an application for regularization is made on or before 01.03.2016, the Corporation shall not take coercive steps to demolish the illegal

structures raised, till orders are passed on the application for regularization, and the said orders are communicated. It also gives liberty to the Corporations, in such of those cases where the applications for regularization are rejected, to initiate action for demolishing the subject structures, in accordance with the provisions, rules and byelaws.

7) Having regard to the factual situation, the Writ Petition is disposed of directing the authorities to consider the explanation given by the petitioner to the show cause notice dated 03.11.2018, submitted on 21.11.2018, taking into consideration the orders passed by the Division Bench of this Court as well.

8) It is made clear that till orders are passed, pursuant to the explanation submitted on 21.11.2018, no coercive steps will be taken. At the same time, the petitioner shall not proceed with the constructions, if any being made, in the subject property.

9) There shall be no order as to costs. As a sequel thereto, miscellaneous petitions pending if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:04.12.2018
vhh