

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No.2427 of 2019

ORDER:

In the instant writ petition, the petitioner challenges endorsement dated 02.01.2019, whereunder the 2nd respondent directed the petitioner to demolish the alleged illegal constructions in house bearing No.7-5-11, 13/2 within seven days from the date of receipt of endorsement.

It is the case of the petitioner that he is making certain minor internal changes in the property on account of loss sustained by him in the business. At the instance of respondents 3 and 4, who incidentally came to have purchased the property from the petitioner, the 2nd respondent is alleging that there are bye-laws for making modifications. The petitioner also submits that W.P.No.40026 of 2018 filed by him came to be disposed of at the admission stage on 06.11.2018.

Earlier, when the petitioner approached this Court in W.P.No.40026 of 2018 challenging the endorsement dated 31.10.2018, this Court had set aside the endorsement as it was a non-speaking order and directed the respondent-authorities to pass orders afresh after considering the explanation submitted by the petitioner. Notwithstanding the above direction, the present proceedings dated 02.01.2019 came to be passed by the 2nd respondent without considering the case of the petitioner in proper perspective.

Heard the learned Standing Counsel for the Municipal Corporation.

A perusal of the impugned order goes to show that the petitioner has failed to obtain permission before making internal changes. Even for making internal changes, appropriate permission is required. However, in

this context, it may be noticed that the Full Bench of this Court in *3 Aces, Hyderabad vs Municipal Corporation of Hyderabad*¹ held that if the deviations are minor in nature, it cannot invite demolition as each and every infraction does not warrant demolition. In such case, this Court held that the respondents shall take into consideration of over all public interest that may be affected due to such deviations, and if there is no public interest involved, the respondents may take decision to condone such minor deviations.

In the light of the judgment in *3 ACES's case* (supra) and in the facts and circumstances of the present case, the respondents shall examine whether the deviations, which are allegedly made by the petitioner, are condonable or the deviations are of such nature that cannot be condoned and thereafter communicate the decision to the petitioner.

Till a decision is taken and communicated to the petitioner, the respondents shall not take any coercive steps with respect to the construction made by the petitioner, pursuant to endorsement dated 02.01.2019.

Subject to the above, the writ petition is disposed of. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

CHALLA KODANDA RAM, J

Date: 08.02.2019
Prv

¹ 1994 (3) ALT 73

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W.P.No.6867 of 2016

02-03-2016

Prv