

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 3317 of 2019

ORDER:

In this writ petition, petitioner challenges the notice, dated 09.02.2019, issued by respondent No.3-Deputy Commissioner, Circle No.17, Khairathabad Zone, Town Planning Section, Greater Hyderabad Municipal Corporation.

The petitioner asserts that he filed an application under the Building Regularisation Scheme and the same was rejected on 10.02.2010, against which, he filed an appeal before the Appellate Committee constituted as per G.O.Ms.No.121, dated 13.05.2014 read with G.O.Ms.No.901, dated 31.12.2007, and the same is pending as on date.

Learned Standing Counsel for respondent Nos.2 and 3 submits that on an earlier occasion, respondent No.4 herein filed W.P.No.10363 of 2009 complaining the inaction on the part of the respondent Corporation with respect to the unauthorised constructions made by the petitioner and this Court by order, dated 16.08.2018, disposed of the said Writ Petition directing the respondent Corporation to take appropriate steps for removal of the unauthorised constructions made by the petitioner within a period of eight weeks from the date of receipt of the order.

As can be seen from the impugned notice, notices were issued to the petitioner alleging that in a small extent of land

admeasuring 129 square yards, he had constructed cellar, ground + two upper floors as against the permission granted for construction of cellar, ground + first floor *vide* permit No.190/24 in file No.11/2/6/82, dated 06.09.1982, and that he submitted explanation on 07.01.2019.

Having considered the above, the question, which is required to be considered in this writ petition, is whether there is any illegality in issuing the impugned notice under Section 636 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act').

It may be noted that there is no denial on the part of the petitioner that there was violation in making the construction of additional floor, for which a notice came to be issued as early as in 2009. However, the record discloses that the petitioner filed a suit and obtained an injunction and under the guise of the same, he continued the construction. Thereafter, the suit came to be dismissed. It may be further noted that pursuant to the order passed in W.P.No.10363 of 2009 filed by respondent No.4, the impugned notice came to be issued. It may also be noted that pursuant to the earlier notice issued by the respondent authorities, the petitioner submitted explanation, in which, there is no mention by the petitioner with respect to grant of any permission to him for construction of additional floor.

The impugned notice is only a notice issued under Section 636 of the Act and it was not an elaborate order passed by the

authority in discharge of any judicial or quasi judicial functions. It is an admitted fact that the petitioner constructed additional floor without obtaining any permission. As there is a duty cast on the Corporation to enforce the building regulations and ensure the orderly development of the city, which would enable maintenance of the infrastructure according to the population ratio, one cannot find fault with the impugned notice issued by respondent No.3. Therefore, there is no illegality in issuing the impugned notice and the interference by this Court is not called for in any manner.

That apart, though the learned counsel for the petitioner seeks indulgence of this Court in the matter, this Court cannot lose sight of the fact that a large number of cases are being filed before this Court day-in and day-out with specific allegations that large number of constructions being made in violation of the sanctioned plan with impunity either with the confidence that the same would go unnoticed, undetected or it may be compromised and with the help of the mighty power of the authority, they are getting away from the clutches with the further hope that the Government may come out with one more building regularisation scheme as was done in the past. In this context, it may be useful for this Court to notify the detailed judgment of the Division Bench of the Bombay High Court dated 02.11.2018 passed in PIL No.80 of 2012. It is not necessary for this Court to extract the elaborate discussion and the findings recorded therein and the evils that the society is being brought upon by showing the misplaced sympathy with respect to the individuals and condoning the

violations that are being admitted with impunity with the political patronage.

The writ petition is accordingly dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall also stand dismissed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:19.02.2019

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