

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

WRIT APPEAL No.256 OF 2019

JUDGMENT: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

The 6th respondent in W.P.No.2345 of 2019 is the appellant.

2. We have heard learned counsel for the appellant, learned Standing Counsel for the Greater Hyderabad Municipal Corporation (GHMC) and the learned counsel for the contesting unofficial respondents, who are the writ petitioners.

3. It is a fact that W.P.No.32578 of 2016, filed by the 6th respondent in the writ petition i.e., the appellant herein, is still pending before this Court. The interlocutory order issued therein is that no cellar shall be dug or made. That was on the submission of the GHMC that construction of cellar was being carried out unauthorisedly.

4. We see that, through the aforementioned interlocutory order, there is no restriction imposed on construction under valid permit. This is, obviously, why the learned single Judge has granted directions in the impugned judgment permitting the writ petitioners to continue with the construction, subject to the liability of even the construction being interfered with, if it is in violation of the rules or permit.

5. However, the appellant, who is the 6th respondent, was not notified about the writ petition before issuing the final order on it, which is impugned in this writ appeal. Noticing the aforesaid facts, we are of the view that the course that may be appropriate is to maintain the impugned judgment as an interlocutory order in W.P.No.2345 of 2019 and open up that writ petition for further consideration. This will enable the 6th respondent in the writ petition to file counter-affidavit in W.P.No.2345 of 2019. We also suggest that, subject to the views that may be taken by the learned single Judge, W.P.No.32578 of 2016 may be taken up for consideration along with W.P.No.2345 of 2019.

6. The writ appeal is ordered accordingly modifying the impugned judgment to be an interlocutory order, which will continue to run until further orders are issued in the writ petition. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall also stand dismissed.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

26th March, 2019

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