

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.8050 of 2019

ORDER:

Heard learned counsel for the petitioner and Smt Pingali Lakshmi, learned Standing Counsel for the 1st and 2nd respondents.

2. This writ petition is filed seeking to declare the action of the 1st and 2nd respondents in not taking action against the 3rd respondent for making unauthorized construction in H.No.6-1-118/1, situated at Kanchara Kunta, Opp. Kuda Office, Hanmakonda, Warangal District, as illegal and arbitrary.

3. The petitioner asserts that the 3rd respondent is his immediate neighbour residing in the aforesaid house. He further asserts that though the 3rd respondent obtained permission for construction of residential house in ground + 2 upper floors, in the site admeasuring 260.57 sq. yards, on 30.05.2016, he had constructed ground + 4 upper floors in violation of the building permission apart from the setbacks and also converted the same into a hospital in violation of the sanctioned plan and zonal regulations, as per which, commercial building, like hospital, cannot be constructed in a residential area, by causing inconvenience to the neighbours. The grievance of the petitioner is that though he made a complaint on 01.03.2019 to the 2nd respondent setting out the said violations, no action has been taken thereon.

4. Learned Standing Counsel, on instructions, would submit that noticing the violations made by the 3rd respondent even before the

complaint of the petitioner, the respondents had issued notice under Section 452(1) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), to the 3rd respondent on 28.11.2018, but as there was no response, they also issued another notice under Section 452(2) of the Act, on 18.12.2018, for which, the 3rd respondent had submitted his explanation on 19.12.2018. She further submits that final orders would be passed within a reasonable time after considering the explanation of the 3rd respondent.

5. Having regard to the submission made by the learned Standing Counsel that the petitioner's grievance has already been attended to by the 2nd respondent and as the construction of ground +4 upper floors is in violation of the sanctioned plan by the 3rd respondent, as evident from the photographs filed by the petitioner, it would be appropriate to direct the 2nd respondent to take necessary action keeping in view the provisions of the Act. It is needless to mention that under Section 461(4) of the Act, the persons, who are responsible for violation of the municipal laws by making unlawful and unauthorized constructions, are liable to be prosecuted and punished with imprisonment for a term which may extend to three years or with fine. As the illegal constructions cannot be made without the connivance or cooperation of the authorities of the respondents, they are also liable to be prosecuted. Therefore, the 2nd respondent shall bear all these aspects in mind and take necessary steps, within a period of four weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition is disposed of. No order as to costs.

7. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

CHALLA KODANDA RAM, J

17th April, 2019

sj

