

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.14267 OF 2019

Date:15.07.2019

Between:

Mohd. Minhajuddin, S/o. Dr. Mohd
Riyazuddin, aged 41 years,
R/o.D.No.12-2-717/1/72, Saptagiri Colony,
Mehdipatnam, Hyderabad and another .. Petitioners

And

The Commissioner, Greater Hyderabad
Municipal Corporation (GHMC), Office
At Tank Bund, Hyderabad and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.14267 OF 2019****ORDER:**

Heard learned counsel for the petitioners and Sri Sampath Prabhakar Reddy, learned Standing Counsel for Greater Hyderabad Municipal Corporation (GHMC) for respondents 1 to 4.

2. Petitioners claim to be owners of plot Nos.28 and 29 of Rahmath Gulshan Nagar and are also residents of house No.12-2-717/1/72 of Sapthagiri Colony, Mehdiapatnam, Hyderabad. Their grievance is against respondents 5 and 6, who, according to petitioners, are making unauthorized construction of building contrary to the sale deed of the vendor from whom they purchased the land. According to the petitioners, only 12 feet road is available to the unofficial respondents plot and rest of the land is petitioners plot and construction is being made by the unofficial respondents, without obtaining building permission and showing as if their opposite land is road. Petitioners allege that they made applications requesting to furnish the approved plan for construction and also filed complaints against the unofficial respondents. But, no action is taken so far. In this Writ Petition, petitioners are seeking declaration of inaction of the respondent authorities in taking action on their representations dated 17.06.2019, 28.06.2019 and 01.07.2019 with regard to illegal construction made by the unofficial respondents in the premises bearing MCH No.1-65 on Plot No.32 situated in Survey No.10 and 17 at Rahmat Gulshan Colony, Gachibowli, Serilingampally, Ranga Reddy District, as illegal and arbitrary.

3. When the Writ Petition is taken up for consideration, learned Standing Counsel for GHMC produced a copy of the building permission granted on 09.03.2017. Therefore, it cannot be said that there is no building permission granted to the unofficial respondents.

4. Whether unofficial respondents are undertaking construction and whether they misled the GHMC by applying the building permission describing as if their opposite land is road, whereas road access is available to them only to an extent of 12 feet and rest of the land belongs to the petitioners are all disputed questions of fact and can be gone into in appropriate proceedings. The writ Court cannot enter into disputed questions of fact. It is also appropriate to note that GHMC issued notice on 08.07.2019 under Sections 452 (1) and 461 (1) of the Hyderabad Municipal Corporation Act, 1955 (for short 'the act') alleging violation of the building permission granted, which was served on the unofficial respondents.

5. Learned Standing Counsel sought to contend that in view of the notice issued, the GHMC may be directed to take action against the unofficial respondents.

6. As the Writ Petition is filed alleging inaction by the GHMC on the complaints filed by the petitioners, in view of what is stated by learned standing counsel across the bar regarding issuing of building permission and notice under Section 452 (1) of the Act, the cause in the Writ Petition does not survive for adjudication.

The Court is not inclined to enter into other aspects and leave it open to the petitioners to agitate in appropriate proceedings.

7. The Writ Petition is accordingly dismissed. However, if the petitioners are so advised, it is open to them to avail appropriate remedies as available in law. Pending miscellaneous petitions shall stand closed.

P. NAVEEN RAO, J

Date:15.07.2019

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