

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.17201 of 2019

ORDER:

The Notice dated 08.08.2019 issued under Section 456 of the HMC Act, 1955, directing the petitioners to vacate the premises as it is in a dilapidated condition, is challenged before this Court.

Section 456 read with Section 459 of the HMC Act deals with regard to the dilapidated structures and buildings, which are likely to cause danger to the residents and also to those in surrounding area. There is no challenge in the writ petition with respect to the power of the Corporation to issue the notice. This Court has already held that, in a given case, the Commissioner is not even required to give notice and can take action depending on the circumstances. It is clearly mentioned under Reference No.2 of the impugned notice that the petitioners were issued with a notice earlier on 07.09.2018 based on Structural Stability report dated 14.06.2018.

Though the petitioners have not pleaded in the affidavit, at the time of hearing the writ petition, learned counsel for the petitioner submits that no notice was issued to the petitioners calling for explanation, and the petitioners were not furnished with a copy of the Structural Stability report dated 14.06.2018. It is also his contention that Section 459 of the HMC Act mandates issuance of such notice.

Learned Standing Counsel submits that Structural Stability report will be furnished to the petitioners, and the petitioners will be directed to submit their objections, if any, in a time-bound manner.

In those circumstances, the writ petition is disposed of with a direction to the 2nd respondent to furnish the Structural Stability report to the petitioners, and the petitioners shall submit their explanation /

objections, if any, within a period of one week from the date of furnishing the Structural Stability report. Thereafter, within one week of submitting objections / explanation by the petitioners, the 2nd respondent-Commissioner shall give an opportunity of hearing to the petitioner, if they so desire, and pass appropriate orders, in accordance with law, by taking into consideration of the explanation / objections that may be submitted by the petitioners. Till such time the orders are passed in terms of Section 456(2) of the Act, the 2nd respondent shall not take any further action in the matter.

Subject to the above, the writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, shall stand closed.

01st October, 2019

KSM

CHALLA KODANDA RAM, J



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KSM