

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 18970 OF 2019

ORDER:

Petitioner, who claims to be the tenant of premises in H. No. 3-495, Madhapur, Circle No. 12, Serilingampally based on the rental agreement dated 22.09.2017, was issued a trade licence to run a food-court therein. The petitioner, by virtue of the rental agreement, is in possession of the property. It is his case that due to intermittent rains, roof-top of the subject premises was damaged, hence, he was undertaking repairs. The respondent authorities, without issuing any notice, are obstructing him from carrying out the repairs, complains the petitioner.

Heard learned counsel for the petitioner.

Learned Standing Counsel for the Corporation Sri Sampath Prabhakar Reddy has placed on record the written instructions which are as follows:

- “1. Unauthorised shed work started in plot 495 by encroaching the foot-path of the road in violation to building rules as per the G.O.Ms.No. 168 M.A., dated 07.04.2012.
2. This office issued notice u/s 452(1) & 461(1) of GHMC Act, 1955 vide notice No. 37/UC/W.No.107/TPS/CIR-21/GHMC/2019, dt. 06.07.2019 stating that why the action should not be initiated against the above said unauthorised construction / usage by way of removing, altering or pulling down.
3. The owner of the plot did not submit any reply and proceeding with the construction work.
4. This office issued notice u/s 452(2) of GHMC Act, 1955 vide notice No. 37/UC/W.No.107/TPS/CIR-21/GHMC/2019, dt. 22.07.2019.
5. The owner of the plot did not submit any reply and proceeding with the construction work.
6. This office issued notice u/s 636 of GHMC Act, 1955 vide notice No. 37/UC/W.No. 107/TPS/CIR-21/GHMC/2019, dt. 13.08.2019.

7. This office demolished unauthorised structure on 17.08.2019.”

In the light of the above instructions and as the petitioner did not assert in the affidavit either the landlord or himself had taken permission for making construction, which is existing as on date, the assertion of the respondents cannot be ignored. Yet another ground taken by the learned Standing Counsel is that when the petitioner had encroached on to the road margin and made constructions causing traffic chaos, demolitions were also carried out on 17.08.2019, however, the petitioner is reconstructing the same. In those circumstances, the relief of the nature which the petitioner seeks cannot be granted.

However, considering the petitioner’s assertion that he has been running the business in the subject premises from 2017 onwards and the respondent Corporation had not taken any action all these years, subject to the condition that the petitioner shall not make any additions / constructions until permission, as required in terms of Section 428 of the Greater Hyderabad Municipal Corporation Act, 1955, is obtained and the respondents shall not demolish the existing structures and in the event the petitioner violates the order of this Court passed now, the respondent authorities are at liberty to demolish the construction without issuing any further notice, the Writ Petition is disposed of. No costs.

The miscellaneous Applications, if any stand closed.

CHALLA KODANDA RAM, J

30th August 2019

ksld

