

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 20766 OF 2019

O R D E R:

Petitioners challenge the final order dated 25.07.2019 issued in terms of Sections 228(3) and 360 of the Telangana Municipalities Act, 1965 (for short, 'the Act') terming the construction carried out by them as unauthorised.

The 2nd petitioner claims to have purchased the house plot bearing Municipal No. 7-3/1/4, marked as plot No. 5 in Survey No. 124/A situated at Peerzadiguda Village in an extent of 122.66 square yards and that they had applied for building permission on 25.04.2019. It is the case of the petitioners that since the municipal authorities have not taken any action thereon, in terms of Section 214 of the Act, the petitioners had proceeded with the construction, under the *bona fide* impression that permission was deemed to have been granted. They deny receipt of the earlier notice stated to have been issued under Sections 228(1) and 228(2) of the Act.

Learned counsel for the petitioners, while contending that the construction made by their clients is not in deviation of the norms, submits that they are ready to offer the explanation to the Municipality. He assures that the petitioners would not make any further construction until permission is accorded.

On the other hand, learned Standing Counsel for the respondent Municipality, on instructions, would state that the Application submitted by the petitioners *online* stood rejected pointing out certain defects. The petitioners, instead of curing the defects, had proceeded further with the construction and hence, prays the learned Standing Counsel to dismiss the Writ Petition.

Having regard to the respective submissions and also considering the fact that the petitioners had *bona fide* started construction in the subject premises, as no rejection order was made on their Application dated 25.04.2019, an opportunity need be given to them before undertaking demolition of the constructions already made.

In those circumstances, the impugned order dated 25.07.2019 is set aside. The petitioners are relegated to the stage of Section 228(1) of the Act, with an opportunity to submit their explanation to the provisional notice dated 27.06.2019, in two weeks from today and within two weeks thereafter, the respondent Municipality shall consider the same in accordance with law and communicate the decision taken thereon to the petitioners. Till such time, the petitioners shall not make any further construction, likewise the respondent Municipality also shall not demolish the constructions already made.

The Writ Petition is disposed of with this order. No costs.

The miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

20th September 2019

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