

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 22576 OF 2019

ORDER :

This writ petition is filed challenging the action of respondents 2 to 5 in not taking any action for removal of illegal constructions made by respondent Nos.6 and 7 in premises No.11-6-873/D, Lakdikapul (behind Garden Bakery), Hyderabad.

Sri Abdul Muqeeth Qureshi, learned counsel appearing for respondents 6 and 7 also takes notice for proposed respondents 8 to 10 and submits on their behalf that because of the interim order granted by this Court on 17.10.2019 in this writ petition, the respondent authorities are proceedings with their construction without following due process of law and that the unofficial respondents have not received any notice. He also submits that the unofficial respondents were granted building permission on 16.10.2019; that they have not constructed any cellar; and that if an opportunity is given they will file explanation and substantiates their claim.

Learned Standing Counsel for respondents 2 to 5 submits that unofficial respondents were issued notice dt. 31.01.2019 to produce necessary documents and as they have not come forward again show cause notice dt.05.10.2019 was issued under Sections 452(1) and 461(1) of HMC Act, 1955, asking to submit reply within seven days regarding construction of cellar. As they have not submitted any explanation, final notice dt. 25.10.2019 is issued under Section 452(2)

of the HMC Act indicating that further action will be initiated as per Sections 636, 596 and 461(4) of the HMC Act.

Learned Counsel for the petitioner while reiterating the submissions of learned Standing Counsel submits that since there was no permission for construction of cellar, the official respondents have taken action by issuing notices and that the unofficial respondents are aware of the same.

In this case it is to be seen that issuance of notices by the Municipal Corporation is disputed by the unofficial respondents.

In view of the aforesaid facts and circumstances, this court is of the opinion that the writ petition can be disposed of directing the Standing Counsel for respondents Corporation to handover copies of all three notices dt.31.01.2019, 05.10.2019 and 25.10.2019 to the counsel for unofficial respondents. The unofficial respondents, treating the said notices as show cause notices, shall submit explanation within two weeks from today. On submission of explanation by the unofficial respondents, the competent authority is directed to take action in accordance with law pursuant to notices dt.05.10.2019 and 25.10.2019. Further, while considering the explanation of the unofficial respondents, the competent authority shall take into account the objections made by the petitioner. This exercise shall be completed within a period of three weeks from the date of filing explanation by the unofficial respondents. If the

unofficial respondents failed to file explanation to the notices served by the learned Standing Counsel, it is open for the competent authority to take action in accordance with law in pursuance to the notices dt.05.10.2019 and 25.10.2019. Till completion of the aforesaid exercise if the unofficial respondents make any further construction in deviation to the approved plan, it is open for the competent authority to take appropriate action.

With the above direction the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending in the writ petition, shall stand closed.

26.11.2019
t k.

A.RAJASHEKER REDDY, J

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 22576 of 2019

26.11.2019

tk