

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.47899 of 2018

Dated :21.02.2019

Between:

Ramakowri Kachawah

..

Petitioner

And

Secunderabad Cantonment Board,
rep. by its Chief Executive Officer,
City Civil Court Compound,
Secunderabad.

..

Respondent



THE HON'BLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.47899 of 2018****ORDER :**

This Writ Petition is filed aggrieved by sealing of premises bearing No.3-10-51, Thirumalgherry, Secunderabad Cantonment, Secunderabad.

2. The petitioner obtained building permission to construct ground +1 floor, however petitioner constructed cellar, second floor and pent house. Having come to know that in deviation of the building permission granted to the petitioner additional floors are constructed which are far in excess of Floor Space Index permissible, the pent house and second floors were demolished, cellar was closed and building was sealed. Aggrieved by the same, the present Writ Petition is filed.

3. Learned counsel for the petitioner does not dispute the fact that the extra construction made was beyond the building permission and contrary to the Floor Space Index parameters. Having realised that it is not permissible to make extra construction in the said property, during the pendency of the Writ Petition, the petitioner submitted representation on 22.01.2019, requesting the Executive Officer to exercise power under Section 248 of the Cantonments Act, 2006 (for short, 'the Act'), collect the compounding fee and regularise the ground and first floor on which building permission was already granted.

4. The Proviso appended to Section 248 (1) of the Act confers power on the Board to accept composition instead of requiring the alteration or demolition of building or part thereof. Discretion is vested in the Board to fix amount of composition.

5. Learned counsel for the petitioner fairly submits that the petitioner is not inclined to use the cellar in future also and will not undertake any construction or repair of second floor and pent house which are damaged and confine his request for exercise of power under Section 248 of the Act, only to the extent of ground and first floor.

6. That being so, the Writ Petition is disposed of directing the Secunderabad Cantonment Board to examine the request made by the petitioner on 22.01.2019 and pass appropriate orders for regularising the ground and first floor only, along with such compounding fee as it deems fit and the same shall be communicated to the petitioner within two months from the date of receipt of a copy of the order. If necessary, Board may obtain affidavit from the petitioner that he would not use cellar, that he would not raise additional floors above the first floor. There shall be no order as to costs.

7. Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

Dt. 21.02.2019.
vhb

P.NAVEEN RAO, J

