

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.333 of 2020

ORDER:

The petitioner claims that he is the owner and possessor of the pent house on the 3rd floor of municipal house bearing No.8-2-686/16/7/401, road No.12, Sarada residency, having purchased the same by way of registered sale deed dated 23.05.2013. The petitioner alleges that Section 636 of the GHMC Act (for short, 'the Act') notice is issued directing the petitioner to remove unauthorized construction made blocking the access to the terrace by other residents of the property.

2. Earlier challenging the notice issued on 14.02.2019, the petitioner filed W.P.No.6283 of 2019 and the writ petition was dismissed by order dated 18.11.2019. Duly taking note of the suit instituted by the plot owners bearing OS.No.254 of 2019 pending in the court of IV Additional Senior Civil Judge, City Civil Court, Hyderabad, the Court was not inclined to entertain the writ petition and granted liberty to the petitioner to work out his remedies. In pursuance thereof, the petitioner instituted OS.No.3320 of 2019 pending in the court of VI Junior Civil Judge, City Civil Court, Hyderabad. The learned Judge granted status quo order in IA.No.2824 of 2019 on 30.12.2019. However, on 2/4.01.2020 notice was issued under Section 636 of the Act directing the petitioner to remove the construction/erection of doors in the common area within 24 hours. Challenging the said notice, this writ petition is filed.

3. Learned counsel for the petitioner submits that as injunction order was passed by the trial Court, the Municipal Corporation cannot issue notice under Section 636 of the Act. He

would submit, though reply was filed on 04.01.2020 intimating the injunction order granted, the doors on the terrace are removed in violation of the directions issued by the trial Court. Learned counsel further submits that the notice under Section 636 of the Act gives rise to fresh cause of action and therefore the writ petition is maintainable.

4. Having regard to the fact that two suits are pending on the same issue, this Court was not inclined to entertain the writ petition and relegated the parties to avail appropriate remedy. Petitioner filed O.S.No.3320 of 2019 in the Court of VI Junior Civil Judge and obtained injunction order. That being so, if what is alleged by petitioner is true, nothing prevented petitioner to file application before the trial Court bringing to the notice of the trial Court the decision taken by the respondent municipal corporation issuing notice under Section 636 of the Act and removing the doors on the terrace is in violation of the status quo order granted by the Court.

5. In view of the earlier litigation concerning inter parties, this Court is not inclined to entertain the writ petition.

6. Leaving it open to petitioner to prosecute pending suits, this Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, shall stand closed.

Date: 06.01.2020
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P. NAVEEN RAO, J