

**THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY**

WRIT APPEAL No.46 OF 2020

JUDGMENT: (Per Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

The Bachanna Youth Association, the appellant, has challenged the legality of the order, dated 14.10.2019, passed by a learned Single Judge in W.P.No.17951 of 2019, whereby the learned Single Judge has directed the official respondents to take into consideration the grievance of the petitioners, and take the necessary steps to ensure that the unauthorized construction is removed within a period of four weeks from the said date.

The learned counsel for the appellant submits that the appellant-Association is registered under the Societies Act, in 1984. They have constructed a Pandal for offering prayers to Lord Ganesh. However, the learned Single Judge has passed the impugned order without giving an opportunity of hearing to the Association. Therefore, the impugned order deserves to be interfered with.

This Court has asked a pointed query to the learned counsel for the appellant whether any sanction plan has been approved by the Greater Hyderabad Municipal Corporation (GHMC) for construction of the Pandal in the middle of the road, or not? For, according to the photographs submitted by the appellant himself, a one room building has been constructed in the middle of a public road. The learned counsel submits that

although no sanction plan was approved by the GHMC, as the construction was raised in 1984, it should be permitted to continue to exist. Moreover, by Order dated 16.12.2019, the learned IV Junior Civil Judge, City Civil Court, Hyderabad, has granted *status quo* order in favour of the appellant, with regard to the same property. The said *status quo* order will continue till 21.01.2020. Therefore, according to the learned counsel, the impugned order deserves to be set aside by this Court.

Heard the learned counsel, and perused the impugned order.

According to the impugned order, the petitioners/respondents 1 and 2 herein have claimed that first petitioner/first respondent herein is the owner of the house property bearing No.18-6-833, situated at Lal Darwaja, Balagunj, Hyderabad. According to them, some unauthorized persons have constructed a kiosk for servicing of vehicles, and the construction was made in the middle of the road (Chapala Galli road which connects Gowlipura to Sudha Talkies). According to the petitioners, the construction is causing serious inconvenience for them. Since it is an unauthorized construction, they had approached the GHMC, but despite their repeated representations to the GHMC, the GHMC had failed to take any action. Therefore, the petitioners were constrained to file the writ petition before this Court.

It is, indeed, trite to state that the construction cannot be raised on a public road. Raising such a construction would be

against law. The construction raised by the appellant is patently an illegal one. It is also trite to state that an illegal construction cannot be continued to exist. For, it is the duty of the Court to ensure that illegal activities are stopped forthwith by the Court.

Therefore, this Court does not find any illegality, or perversity, in the impugned order passed by the learned Single Judge. However, as there is a stay order passed by the learned IV Junior Civil Judge, City Civil Court, Hyderabad, dated 16.12.2019, it shall continue till 21.01.2020. The third respondent is directed not to take any action on the illegal construction till 21.01.2020. However, after the said date, the GHMC shall be free to take action, and remove the illegal construction, in accordance with law.

The writ appeal stands disposed of in the above mentioned terms. Miscellaneous petitions, pending if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

09.01.2020
Pln