

**HIGH COURT FOR THE STATE OF TELANGANA
(Special Original Jurisdiction)**

MONDAY, THE ELEVENTH DAY OF MAY
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 6750 OF 2020

Between:

1. Sri. Ramlal Choudhary, S/o. Sri. Pukaramji Choudhary, about 57 years, Occ.Business, R/o. Plot No. 7, H.No. 4-7-18/1/A/7, Raghavendra Nagar, Nacharam, M.M. Dist.
2. Smt. Kamala Bai, W/o. Sri Ramlal Choudary, Aged about 54 years, Occ. Housewife, R/o. Plot No. 7, H.No. 4-7-18/1/A/7, Raghavendra Nagar, Nacharam, M.M. Dist.

...PETITIONERS

AND

1. The Greater Hyderabad Municipal Corporation, Rep. by its Commissioner, Tank Bund, Hyderabad.
2. The Greater Hyderabad Municipal Corporation, Rep. by its Dy. Commissioner, Kapra, Cir - I, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue Writ, order or direction more particularly one in the nature of Writ of Mandamus by declaring the action of the 2nd Respondent in issuing notice No.82/TPS/C1/GHMC/2020, dt.02/05/2020 as illegal arbitrary violative of principles of natural justice and also violative of Articles 14, 21 and 300A of the Constitution of India and consequently direct the respondents to consider the representation of the Petitioners dt. 02/05/2020 and consequently not to interfere in the Petitioners H.No. 4-7-18/1/A/7, Raghavendra Nagar, Nacharam, M.M. Dist., and orders may be passed accordingly in the interest of justice.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents not to demolish the petitioners H.No. 4-7-18/1/A/7, Raghavendra Nagar, Nacharam, M.M.Dist., by suspending notice No. 82/TPS/C1/GHMC/2020, dt. 02/05/2020 pending disposal of the Writ Petition and orders may be passed accordingly in the interest of justice

Counsel for the Petitioners: SRI R.A. CHARY ,

Counsel for the Respondents: SRI SAMPATH PRABHAKAR, ,

STANDING COUNSEL FOR GHMC.

The Court made the following:

ORDER:

Heard learned counsel for the petitioner, and the learned Standing Counsel Sri Sampath Prabhakar appearing for GHMC.

While it is the assertion of the petitioner that the construction was already existing and the petitioner came to have purchased the property with a built up area G+3 floors, the very Sale Deed which the petitioner relies on, the "Schedule of the Property" discloses the 1st, 2nd and 3rd floors to be unfinished.

The permission granted by the Municipal Corporation was only for G+2 floors. The petitioner did not choose to reply to the preliminary notice issued to him under Section 451 of the GHMC Act which was admittedly issued on 06.03.2020, and thereafter the second notice was issued on 19.03.2020.

While the first notice under Section 452 read with 461 of Act is to Show Cause, which has not been replied to, the second notice is confirming the factum that the petitioner has violated. As there was no reply from the petitioner, the final notice under Section 636 of the Act is only a notice given to remove the illegal constructions made by the petitioner. Further, it is the specific case of the respondent Corporation that the construction is being carried out even as on date taking advantage of the lockdown situation. Though the petitioner submits that he had submitted explanation on 02.05.2020, it is significant to note that the impugned order, as a matter of fact, is dated 02.05.2020. In other words, there is every reason for this Court to not take into consideration of the alleged explanation dated 02.05.2020 in response to notice under Section 452(2) of the Act.

As stated supra, the scope of order under Section 452(2) of the Act is confirmation with respect to the constructions made as alleged in the initial notice under Section 452(1) of the Act.

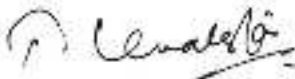
In those circumstances, this Court is not inclined to grant stay or status quo or any such order of stoppage of demolition as the petitioner had

taken the risk of purchasing the property which did not have permission, with the confidence that he would be completing the construction. As the petitioner himself is responsible for the loss, if any, this Court cannot help in any manner as granting stay would only be perpetuating the illegality.

Hence, the writ petition is dismissed. No costs. Miscellaneous petitions, if any pending, shall also stand dismissed.

Sd/- SRI JUSTICE CHALLA KODANDA RAM

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REGISTRAR (JUDICIAL)


SECTION OFFICER

To,

1. One CC to Sri. R.A. Chary, Advocate [OPUC]
2. One CC to Sri. Sampath Prabhakar, Standing Counsel for GHMC. [OPUC]
3. Two CD Copies

Prk

HIGH COURT

CKRJ

DATED:11/05/2020

ORDER

WP.No.6750 of 2020



Dismissing the WP.
without costs.