

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
MONDAY, THE FIFTH DAY OF JULY TWO THOUSAND AND TWENTY ONE

:PRESENT:

THE HONOURABLE SRI JUSTICE A.ABHISHEK REDDY
WRIT PETITION NO: 17379 OF 2020

Between:

Mr.Nawab Mohammed Zain ul Abedin Khan Bahadur, S/o. Nawab Mohammed Asifuddin Khan

Petitioner

AND

1. The State of Telangana, Rep, by its Principal Secretary, Municipal Administration and Urban Development Department Secretariat Buildings, at Hyderabad
2. The Greater Hyderabad Municipal Corporation, Rep. by its Commissioner, Tank Bund, Hyderabad
3. The Deputy Commissioner, Town Planning Section Circle No.9, South Zone, Greater Hyderabad Municipal Corporation, Sardar Mahal, Charminar, Hyderabad
4. The Assistant City Planner, Town Planning Section, Circle No.9, South Zone, Greater Hyderabad Municipal Corporation, Sardar Mahal, Charminar, Hyderabad
5. Mr.Tapas Patra, S/o.Subal Patra, Occ. Business, R/o.H.No.23-5-383, Kali Kaman, Hyderabad
6. Mr.Manas Patra, S/o.Subal Patra, Occ. Business, R/o.H.No.22-5-303/1, Gulazar Houze, 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 a Writ, Order or Direction more particularly one in the nature of "Writ of Mandamus" by declaring the action of the Official Respondents more particularly the Respondent No.4 in not taking further action against the illegal construction carried out by the Unofficial Respondent Nos.5 and 6 despite passing Demolition Order dt.09-09-2020 under Section 452(2) of HMC Act 1955 (vide Notice No.3/704/5/22/TPS/ACP/C9/GHMC/2020) against them after issuing Show Cause Notice dt.24-08-2020 under Section 452(1) and 461(1) of HMC Act 1955 in pursuance of Petitioner's complaint dt.10-01-2020 and 18-03-2020 complaining about the unauthorized construction carried out by Unofficial Respondent Nos.5 and 6 by illegally constructing Stilt Plus Three Upper Floors by laying columns and slabs in respect of House Property bearing Municipal No 22-5-704/3, admeasuring 98 Sq.Yards, situated at Alijah Kotla, Hyderabad, as arbitrary, ex-facie illegal, discriminatory, highhanded and dereliction of duty and consequently may direct the Official Respondents more particularly the Respondent No.4 to take further action against the said unauthorized construction carried out by the Unofficial Respondent Nos.5 and 6 in pursuance of the Demolition Orders dt.09-09-2020 passed by them under Section 452(2) of HMC Act 1955 (vide Notice No.3/704/5/22/TPS/ACP /C9/GHMC/2020) by demolishing the illegal construction, 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 Official Respondents more particularly the Respondent Nos.2 to 4 to take further action against the said unauthorized construction carried out by the Unofficial Respondent Nos.5 & 6 in pursuance of the Demolition Orders dt.09-09-2020 passed by them under Section 452(2) of HMC Act 1955 (vide Notice No.3/704/5/22/TPS/ACP/C9/GHMC/2020) by demolishing the illegal construction in respect of House Property bearing Municipal No.22-5-704/3, admeasuring 98 Sq.Yards, situated at Alijah Kotla, Hyderabad, in the interest of justice, pending disposal of WP No. 17379 of 2020, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court dated 16/11/2020 made herein and upon hearing the arguments of SRI NAZIR AHMED KHAN Advocate for the Petitioner and GP FOR MCPL ADMN & URBAN DEV for the Respondent 1 and SRI Pasham Krishna Reddy (S.C.) for the Respondents 2 to 4, the Court made the following.

ORDER:

Counter has been filed on behalf of Respondent Nos.2 to 4 specifically stating that in deviation of the sanctioned plan, the unofficial respondents have constructed stilt+3 upper floors and the official respondents have also issued notice under Section 452 (2) of the GHMC Act on 03.09.2020. As no reply was received, the authorities were constrained to issue final notice under Section 636 of the GHMC Act on 03.11.2020. It is further stated that on 05.11.2020 the official respondents have also written to the concerned Police for police aid to take up the demolition work on 07.11.2020. Further the unofficial respondents have filed a suit in O.S.No.2343 of 2020 before the VI Junior Civil Judge, CCC, Hyderabad, and obtained interim stay orders.

Even though this counter is filed in the month of January, 2021, no additional counter is filed or any instructions are received by the learned Standing Counsel as to what happened in between January, 2021, and till date.

Having regard to the same, the official respondents are directed to file a vacate stay petition in O.S. No.2343 of 2020 on the file of VI Junior Civil Judge, CCC, Hyderabad, and get the stay vacated. Thereafter, the authorities shall see that the unauthorized construction is removed, as expeditiously as possible, preferably within a period of three months.

Post on 20.10.2021 for reporting the steps taken by the official respondents.

Sd/- T.TIRUMALA DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration and Urban Development Department, State of Telangana, Secretariat Buildings, at Hyderabad
2. The Commissioner, Greater Hyderabad Municipal Corporation, Tank Bund, Hyderabad
3. The Deputy Commissioner, Town Planning Section Circle No.9, South Zone, Greater Hyderabad Municipal Corporation, Sardar Mahal, Charminar, Hyderabad
4. The Assistant City Planner, Town Planning Section, Circle No.9, South Zone, Greater Hyderabad Municipal Corporation, Sardar Mahal, Charminar, Hyderabad
5. Mr.Tapas Patra, S/o.Subal Patra, Occ. Business, R/o.H.No.23-5-383, Kali Kaman, Hyderabad
6. Mr.Manas Patra, S/o.Subal Patra, Occ. Business, R/o.H.No.22-5-303/1, Gulazar Houze, Hyderabad (1 TO 6 by RPAD)
7. One CC to SRI NAZIR AHMED KHAN-, Advocate [OPUC]
8. Two CCs to GP FOR MCPL ADMN & URBAN DEV (TG), High Court at Hyderabad. [OUT]
9. One spare copy

HIGH COURT

AARJ

DATED:05/07/2021

post on 20-10-2021

ORDER

WP.No.17379 OF 2021

DIRECTION

