

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

W.P. NO.20758 OF 2020 AND CONTEMPT CASE NO.456 OF 2022

COMMON ORDER:

The writ petition is filed to declare the inaction of respondent Nos.3 and 5 in removing the unauthorized structures constructed in the setback area of the Premises bearing No.4-6-72/2 & 3, United Arcade Commercial Complex, Attapur as illegal, lethargic and unaccountable on their part and also declare providing power to the unauthorized structures by respondent Nos.4, 6 and 7 being public servants as illegal, unwarranted and unbecoming on their part and consequently direct the official respondents to remove the illegal structures constructed by the unofficial respondents.

2. This Court vide order dated 19.11.2020 in W.P. No.20758 of 2020 has passed the following order:

“Notice before Admission.

Learned counsel for the petitioner is directed to take out personal notice to respondent Nos.9 to 12 and file proof of service into Registry.

Sri Pasham Krishna Reddy, learned Standing Counsel, takes notice for respondent-GHMC and states that already notices have been issued to the unofficial respondents, who are making unauthorized constructions, and the final notice under Section 636 of the GHMC Act is also issued. But, due to the ongoing elections work, the official respondents could not take up the further steps and

that the officials will follow up the notice issued under Section 636 of the GHMC Act and take necessary action in accordance with law. Learned Standing Counsel seeks to file a counter and requests to grant some time for the same.

Post on 21.12.2020 for filing counter.”

3. Thereafter, on 18.06.2021 in W.P. No.20758 of 2020, this

Court has passed the following order:

“The learned Standing Counsel for GHMC has stated that even though the officials of the respondent Corporation tried to demolish the unauthorized structures being made by the unofficial respondents, they could not do so due to lack of police protection, and that in case necessary police protection is provided to the officials of the respondent Corporation, they will take necessary action, as they have already issued a Notice under Section 636 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, ‘the Act’) to the unofficial respondents.

Having regard to the above made submissions, the Assistant Commissioner of Police, Rajendranagar, is impleaded suo moto by this Court as party-respondent.

The Assistant Commissioner of Police, Rajendranagar, is directed to provide necessary police aid, if any request is made by the concerned G.H.M.C. authorities, to take due steps for removal of the unauthorized construction being made by the unofficial respondents, pursuant to the Notice issued under Section 636 of the Act.

Respondent Nos.3 and 5 shall file an ‘Action Taken Report’ by the next date of hearing.

Post on 02.08.2021.”

4. Thereafter, on 07.04.2021 in W.P. No.20758 of 2020, this Court has passed the following order:

“Even though, on 19.11.2020, the learned Standing Counsel, on instructions, has stated that the final notice under Section 636 of the Greater Hyderabad Municipal Corporation Act, 1955, has already been issued, but due to the election work the officials could not take up any further steps, till date neither a counter affidavit nor any Action Taken Report is filed as to what action the official respondents have taken.

In view of the same, the respondent No.5-the Deputy Commissioner, GHMC, Circle No.11, Rajendra Nagar, is directed to file Action Taken Report by the next date of hearing, failing which, he shall appear in person before this Court and explain the reasons for not taking any action.

Post on 26.04.2021.”

5. Thereafter, the contempt case is filed to initiate contempt proceedings under Sections 10 to 12 of the Contempt of Courts Act against the respondent Nos.1 and 2 for their willful disobedience to the directions of this Court for the removal of the illegal construction vide orders dated 19.11.2020, 18.06.2021 and 07.04.2021 in W.P. No.20758 of 2020.

6. This Court vide order dated 19.11.2020 had directed the official respondents to take necessary action against the unofficial respondents for removal of unauthorized construction. In view of the same, notice has been issued under Section 636 of the Greater

Hyderabad Municipal Corporation Act, 1955. On 18.06.2021, the learned Standing Counsel for GHMC has stated that the respondent Corporation could not demolish the unauthorized structures being made by the unofficial respondents due to lack of police protection. Thereafter, the Assistant Commissioner of Police, Rajendra Nagar was impleaded suo moto by this Court as party-respondent and the Assistant Commissioner of Police was directed to provide necessary police aid to the respondent Corporation.

7. Counter has been filed by the respondents stating that the authorities concerned have taken necessary action for removal of the unauthorized construction and to that effect a report has been filed. However, the learned counsel for the petitioner has stated that the official respondents i.e., GHMC authorities have not removed the encroachments as stated in the “Action Taken Report” and as a matter of fact, the unauthorized constructions in the setback areas are still there.

8. As there is a dispute with regard to the removal of the said unauthorized construction and encroachments made in the setback areas, this Court vide order dated 27.01.2023 has directed the Secretary District Legal Services Authority, Ranga Reddy District to inspect the subject premises and file a report. Accordingly, a report

has been filed by the Secretary District Legal Services Authority along with photographs of the subject premises i.e., United Arcade Commercial Complex, Premises bearing No.4-6-72/2&3. The photographs disclose that the unauthorized constructions which are constructed in the open space/setback area/parking area have been removed by the authorities. However, in the said report, it is stated that the said encroachments were removed a day prior to the inspection i.e., on 01.02.2023 by the Secretary, DSLA. It is stated by the learned Standing Counsel for GHMC that even though the officials have removed the illegal structures in the setback area, the unofficial respondents have set up temporary structures to run their business and the same were also removed.

9. Having regard to the report filed by the District Legal Services Authority, Ranga Reddy District *vide* Lr.Dis.No.137/2023, dated 01.02.2023, both the writ petition as well as the contempt case are closed with the following directions:

- (1) The authorities shall see that no encroachments or any construction is made in the area earmarked as open space/setback area/ parking area. Any encroachment or construction in the above area shall be removed forthwith.

- (2) It is also made clear that no Business license shall be issued for running of any food stalls or any temporary shops in respect of the areas earmarked as open area/setback area/parking area.

As a sequel thereto, miscellaneous applications, if any, pending shall stand closed. There shall be no order as to costs.

A. ABHISHEK REDDY, J

February 03, 2023

NSP

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

CONTEMPT CASE No.1936 OF 2022

03.02.2023

NSP/SA