APHC010536732026

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Bench Sr.No:-1
[3584]

WRIT APPEAL NO: 1172 of 2026

Smt. D. Syamala Kalyani and another ...Appellant(s)

Vs.

Smt. M. Sesha Ratna Karuna and another ...Respondent(s)

****

CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE CHALLA GUNARANJAN

DATE : 9th October 2026

Present:

Advocate for Appellants: MR.DAMARAJU MADHUSUDHAN VIJAY KUMAR

Advocate(s) for Respondent(s): MR. N. SIVA REDDY, A S C BOSE

***

JUDGMENT: (per Hon'ble Sri Justice Challa Gunaranjan)

This appeal is preferred aggrieved by order, dated 22.07.2026, in W.P. No.16330 of 2012, whereby learned Single Judge disposed the writ petition.

2. Appellants herein are respondents 2 and 3 in the writ petition. 1st respondent herein filed writ petition challenging notice, dated 09.05.2012, issued under Section 636 of the Hyderabad Municipal

Corporation Act, 1955, (for short, “the Act”), whereby 2nd respondent Corporation directed removal of unauthorized construction. The appellants and others, being landowners, entered into development agreement with 1st respondent/writ petitioner for construction of residential apartment. 1st respondent secured building permission for construction of a stilt + ground + 4 upper floors, vide proceedings, dated 13.07.2009, and accordingly, construction was completed and possession was delivered on 03.11.2011.

3. 1st respondent/writ petitioner, however, in deviation of sanctioned plan, stated to have constructed a penthouse on sixth floor, thus, appellants made complaint, dated 12.01.2012, to 2nd respondent Corporation for initiating appropriate action. Thereafter, when no further action was forthcoming, they preferred W.P. No.1152 of 2012, which came to be disposed by directing 2nd respondent Corporation to consider and pass appropriate orders on the complaints so made. Consequently, 2nd respondent issued notice, under Section 452 read with Section 461 of the Act, calling upon 1st respondent to offer explanation with regard to illegal construction of penthouse. As no explanation was submitted, 2nd respondent Corporation issued final notice, under Section 636 of the Act, ordering removal of unauthorized construction.

4. It is stated that 1st respondent, without arraying the appellants as party respondents, preferred writ petition challenging aforesaid final notice, wherein an order of *status quo* was granted. It is stated that learned Single Judge, while disposing the writ petition, yet again, directed 2nd respondent Corporation to issue proper notice and follow due process of law before initiating further action regarding unauthorized construction. Aggrieved by the said direction, appellants preferred present writ appeal.

5. Heard Mr.D.Madhusudhan Vijaya Kumar, learned counsel for appellants and Mr.N.Siva Reddy, learned counsel for 1st respondent and Mr.A.S.C.Bose, learned Standing Counsel for 2nd respondent Corporation.

6. Learned counsel for appellants contended that when already notice under Section 452 read with Section 461 of the Act, dated 13.04.2012, followed by final notice, dated 09.05.2012, under Section 636 of the Act, were issued, learned Single Judge was not justified in yet again directing 2nd respondent Corporation to issue fresh notice, rather than directing to treat contents of writ petition as an explanation and pass appropriate orders for removal of unauthorized constructions.

5. Opposing the said submissions, learned counsel for 1st respondent tried to support the order passed by learned Single Judge.

6. On perusal of the record, it is apparent that at the instance of appellants, 2nd respondent Corporation issued notices, dated 13.04.2012 and 09.05.2012, however, without arraying appellants as party respondents, the writ petition was filed by 1st respondent, wherein an order of *status quo* was granted. Though learned counsel for appellants tried to persuade us to hold that construction of penthouse was contrary to building permission and even otherwise the same cannot be regularized by taking advantage of the Building Penalization and Regularization Scheme, we do not wish to deal with merits of the matter, inasmuch as the said aspect has to be determined by 2nd respondent Corporation after hearing both parties.

7. Learned Single Judge rightly disposed the writ petition by directing 2nd respondent Corporation to take appropriate action against unauthorized constructions, if any, by issuing notice to the writ petitioner and decide the same by following due process of law. We do not find any justification to interfere with the view expressed.

8. Be that as it may, as there is no specific time frame fixed for undertaking aforesaid exercise, we hereby direct 2nd respondent Corporation to conclude aforesaid exercise within a period of two months from the date of receipt of a copy of this judgment. It is needless to state that the writ petitioner as well as the appellants herein shall be

given due opportunity to put forth their objections, and after considering the same, the 2nd respondent Corporation shall take a final decision in accordance with law.

9. Writ appeal, accordingly, stands disposed of. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

LISA GILL, CJ **CHALLA GUNARANJAN, J**

cs