

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WP(PIL) No.29 of 2021 & W.P.No.14606 of 2020

COMMON ORDER: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

Regard being had to the controversy involved in the aforesaid cases, they were heard together and are being decided by a common order.

The facts of W.P(PIL).No.29 of 2021 are reproduced as under:-

The present writ petition (public interest litigation) has been registered based upon a letter dated 04.03.2021 wherein it has been stated that Hotel Tulips Grand in Turkayamjal Municipality has been constructed without there being any building permission granted by the Hyderabad Metropolitan Development Authority (HMDA) and floating all statutory provisions/municipal laws.

This Court has directed the HMDA to file reply in the matter and the HMDA has filed a detailed and exhaustive reply. The reply reveals that after following due process of law, a show cause notice has been issued on 04.09.2020 and a contempt notice was issued on 27.09.2020 to the owners of the subject building and they have also submitted explanation on

08.09.2020. It has also been stated that an application was also submitted by the owners of the subject building on 01.10.2020 for regularisation of the alleged unauthorised/illegal construction and the same is also pending.

The facts of the case reveal that W.P.No.14606 of 2020 has been filed by the owners of the subject building and this Court has granted an order of *status quo* in the matter. Meaning thereby, all proceedings whether they are in respect of taking appropriate action in respect of illegal construction or whether they are in respect of regularisation of illegal construction have come to standstill.

Resultantly, without advertng to the merits of the case, both the writ petition (public interest litigation) and the writ petition are disposed of with a direction to the respondent authorities to pass a final order in respect of the show cause notice dated 04.09.2020 issued in the matter, that too after taking into account the reply dated 08.09.2020 submitted by the owners of the subject building. The exercise of passing appropriate order be concluded within a period of forty-five (45) days from today.

There is also an application for regularisation of alleged unauthorised/illegal construction and the respondent

authorities shall pass appropriate order in respect of the application also within the aforesaid period.

At this juncture, it has been brought to the notice of this Court that in W.P.No.5130 of 2016 and batch, a Division Bench of this Court has passed the following order dated 18.10.2016:-

“In all these writ petitions, persons who have raised illegal structures, and who claim to have submitted applications for regularisation in terms of G.O.Ms.No.152 dated 02.11.2015, have invoked the jurisdiction of this Court seeking a mandamus to restrain the concerned Municipal Corporations from demolishing the structures raised by them, as their applications, for regularisation of the illegal constructions, are still pending consideration before the competent authorities.

While, in some cases, the writ petitions have been filed on mere apprehension, in a few others, notices have been issued to the petitioners, under Section 452 (1) of the GHMC Act, asking them to show cause why action should not be taken for demolition of the illegal structures raised by them earlier. As we have modified the interim order passed earlier, in W.P.(PIL) No.63 of 2016 dated 20.06.2016, today i.e., 18.10.2016, we consider it appropriate to dispose of all these writ petitions, in terms of the said order, directing the concerned Municipal Corporations not to take coercive steps, for demolition of the illegal structures raised by the petitioners herein, provided applications, seeking regularization under G.O.Ms.No.152 dated 02.11.2015, were submitted by them before the cut-off date specified in the said G.O or the extended cut-off date till 01.03.2016.

In case the petitioners have submitted applications for regularisation on or before 01.03.2016, the respondent Municipal Corporation shall not take coercive steps to demolish the illegal structures raised by them till orders are passed on their applications for regularisation, and the said orders are communicated to them. It is open to the Municipal Corporations, in such of those cases where the applications for regularisation are rejected, to initiate action for demolishing the subject

structures in accordance with the provisions of the GHMC Act, and the Rules and bylaws made thereunder. It is made clear that, in such of those cases where applications, seeking regularisation, have not been submitted before 1.03.2016, it is open to the Municipal Corporations concerned to take action, for demolition of the illegal structures, in accordance with law.

All these writ petitions are disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.”

In the light of the aforesaid order, the respondent authorities are directed to follow the same procedure as prescribed by the Division Bench in respect of the application filed by the owners of the subject building in respect of regularization.

It is made clear that till final orders are passed by the respondent authorities in the matter, as directed by this Court, there will be no coercive action against the owners of the subject building.

Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

27.04.2022
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