

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

THURSDAY, THE SECOND DAY OF APRIL TWO THOUSAND AND FIFTEEN

Present

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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WRIT PETITION No.7426 of 2015

Between:

Darisipudi Sankar, S/o. Krishna Murthy,
Aged about 34 years, Business,
D.No.2-2-24, One Way Traffic Road,
Pithpuram, East Godavari District.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary, M.A & U.D,
Secretariat, Hyderabad & another

.. Respondents

The Court made the following:

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This writ petition is filed for a writ of *mandamus* declaring the impugned provisional order made in U.C.B.A.No.145/2014-G1, dated 01.11.2014, and its consequential conformation notice made in U.C.B.A.No.145/2014-G1, dated

07.11.2014, by the 2nd respondent as illegal, arbitrary and violative of principles of natural justice and for a consequential direction to the 2nd respondent herein not to initiate any further steps for demolition of building bearing Door No.2-2-24, Ward No.3, One Way Traffic Road, Pithapuram, East Godavari District.

2. The case of the petitioner is that the petitioner and his brother Darisipudi Rajesh are the owners and possessors of the house bearing Municipal Door No.2-2-24, 3rd Ward, One Way Traffic Road, Pithapuram, East Godavari District. They applied for building permission and the 2nd respondent, vide its order No.B.A.No.145/2014-G1, was pleased to accord building permission and according to which, the petitioner constructed the building. But on some political animosity with the 3rd ward Councillor Smt.Joga Radha, at her instance, the 2nd respondent issued provisional order, dated 01.11.2014, stating that the petitioner has constructed the building in violation of the sanctioned plan. Subsequently, the 2nd respondent issued conformation notice, dated 07.11.2014, directing the petitioner to remove the constructed portion shown in the provisional order, dated 01.11.2014. Later, the 2nd respondent issued another notice, dated 22.11.2014, stating that the 3rd ward Councillor Smt.Joga Radha and others have made a complaint against the petitioner stating that the structures constructed by the petitioner are contrary to building permission and hence, directed the petitioner to lock the godown, failing which the 2nd respondent would lock the godown and confiscate the same. Aggrieved thereby, the petitioner filed the present writ petition.

3. Heard Sri S.A. Razak, learned counsel for the petitioner, learned Government Pleader for Municipal Administration for the 1st respondent and Sri Nimmagadda Venkateswarlu, learned Standing Counsel for the 2nd respondent.

4. Learned counsel for the petitioner submits that without serving any notice to the petitioner, the 2nd respondent has passed the impugned orders, which is in violation of principles of natural justice. The petitioner was straight

away served with the impugned proceedings, dated 07.11.2014, issued by the 2nd respondent under Section 217(3) of the A.P. Municipalities Act, 1965, asking the petitioner to remove the portion of the construction, which is in violation of the approved plan in respect of his building.

5. Learned counsel for the petitioner further submits that there is no inspection of the building and though the petitioner was utilizing the ground floor for parking purpose, but the respondent authorities have considered the same as commercial purposes and issued the present impugned proceedings.

6. On the other hand, Sri Nimmagadda Venkateswarlu, learned Standing Counsel for the 2nd respondent submits that the provisional order, dated 01.11.2014, issued by the 2nd respondent under Section 217(1) of the A.P. Municipalities Act, 1965, was served on the occupier of the premises and since the petitioner failed to submit the explanation, the impugned proceedings, dated 07.11.2014, are issued.

7. This Court granted *status quo* on 23.03.2015.

8. In view of the fact that the petitioner states that he has not received the provisional order, dated 01.11.2014, and the conformation proceedings, dated 07.11.2014, issued by the 2nd respondent, the petitioner is at liberty to submit his explanation to the provisional order, dated 01.11.2014, as well as the conformation proceedings, dated 07.11.2014, within a period of three (3) weeks without waiting for the orders from this Court and thereafter, the 2nd respondent shall consider the explanation submitted by the petitioner and pass appropriate orders, in accordance with law. The *status quo* granted earlier on 23.03.2015 shall stand extended till then. However, the petitioner shall not use the ground floor portion of the premises for other than residential purposes. If the petitioner does not file any explanation within a period of three (3) weeks, it is open to the 2nd respondent to proceed further as per the impugned notice, dated

07.11.2014.

9. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, in this writ petition shall stand closed.

A.RAJASHEKER REDDY, J

Date: 2nd April, 2015

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