

THE HONOURABLE MR JUSTICE A.V.SESHA SAI

WRIT PETITION No.1601 of 2009

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ORDER

This writ petition, filed under Article 226 of the Constitution of India, challenges the Notice bearing No.UC-14/TPS-I/KC/GHMC/2008-09 dated 19.01.2009, issued by the first respondent-Commissioner under Section 452 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act').

2. Heard learned counsel for the petitioner and learned Standing Counsel for the first respondent Corporation.

3. According to the petitioner, he is the owner of the premises bearing No.1-10-28/254/2/1 to 8, situated at Subashnagar Colony, opposite Nagarjunanagar Colony, Kushaiguda, Hyderabad, and he applied for building permission for construction of Ground+two floors in respect of the said premises in the year 2003-04 by paying necessary building permission charges as directed by the first respondent authorities. It is pleaded that in response to the information given by the first respondent office, he paid the amount on 27.05.2004 and subsequently, the differential amount was also paid on 03.12.2004. It is further pleaded in the writ affidavit that the petitioner herein paid a total sum of Rs.6,11,445/-and after waiting for the statutory period, he proceeded with the construction, completed the same and communicated to the then Commissioner, Kapra Municipality. It is also the case of the petitioner that the municipal authorities inspected the building, assessed the tax and issued the demand notice to pay the property tax and accordingly, he paid the same and he has been paying the tax from time to time till date. It is also the case of the

petitioner herein that in the year 2007, the third floor was constructed and he applied for regularization under B.R.S.Scheme by paying the required amount vide file No.9685/2008 dated 15.07.2008 and the same is pending consideration. The first respondent herein issued the impugned notice under Section 452 of the Act, asking the petitioner herein to show cause why the building or such portion of the building should not be removed or pulled down.

4. It is an undisputed reality that the petitioner herein without submitting an explanation to the said show cause notice, directly invoked the jurisdiction of this Court under Article 226 of the Constitution of India. In fact, the petitioner herein has to file an explanation to the said show cause notice. Since the notice impugned in the writ petition is only a show cause notice and as the petitioner herein is entitled to submit his explanation, this Court is not inclined to interfere with the said show cause notice. However, keeping in view the nature of controversy in the writ, this Court is inclined to give an opportunity to the petitioner to submit his explanation to the impugned show cause notice while keeping it open to the first respondent authority to consider and take appropriate action as per law.

5. For the aforesaid reasons, the Writ Petition is disposed of, giving liberty to the petitioner herein to submit his explanation to the impugned show cause notice dated 19.01.2009 issued vide reference No.UC-14/TPS-I/KC/GHMC/2008-09, within a period of one month from the date of receipt of a copy of this order along with all the supporting material. If any such explanation is submitted within the time stipulated, the first respondent herein shall consider the same and pass appropriate orders as per law

after giving an opportunity of hearing to the petitioner. Till such exercise is completed and attains finality, no coercive steps shall be taken by the respondents. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.V.SESHA SAI, J

23rd January, 2015

sj