

HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.3420 of 2009

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the notice bearing No.G2/3457/2008 dated 16.02.2009 issued by the Commissioner, Municipal Corporation of Karimnagar/respondent herein, directing the petitioner herein to remove the constructions.

2. Heard Sri V.Ranga Rao, learned counsel for the petitioner and the learned Standing Counsel for the Municipal Corporation of Karimnagar apart from perusing the material available before the Court.

3. According to the petitioner, he is the owner of the land admeasuring Ac.5-00 in Sy.No.53 of Kharkhana Gadda, Karimnagar District. The grievance precisely in the present writ petition is that without issuing any show-cause notice and without giving any opportunity of being heard to the petitioner, the respondent herein issued the impugned notice dated 16.02.2009 directing the petitioner herein to remove constructions.

4. This Court, while issuing *Rule Nisi* on 20.02.2009, granted order o f *status quo* in WPMP.No.4441/2009 and the said order is still subsisting. No counter has been filed by the respondent Corporation in the direction of denying the averments made in the affidavit filed in support of the writ petition or in the direction of justifying the impugned action. Therefore, this Court is inclined to dispose of the present writ petition, basing on the material available.

5. It is a settled and well established proposition of law that any action on the part of the authorities which has civil consequence must necessarily be preceded by a show-cause notice and opportunity of being heard to the persons likely to be affected by such action. In the instant writ petition, it is the categorical case of the petitioner herein that

the respondent herein issued the impugned notice dated 16.02.2009 without issuing any show-cause notice and without giving any opportunity of being heard. This Court is of the considered opinion that the said action on the part of the respondent authorities is definitely an action in violation of principles of natural justice and also in contravention of the provisions of the Hyderabad Municipal Corporation Act.

6. For the aforesaid reasons, writ petition is allowed, declaring the notice dated 16.02.2009 issued by the respondent herein as illegal, arbitrary and violative of principles of natural justice. However, this order will not preclude the respondent herein from initiating any action in accordance with law. Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:11.02.2015

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Between:

Masood Shakhan

... Petitioner

and
Municipal Corporation of Karimnagar,
Karimnagar, represented by its Commissioner.

... Respondent

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