

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.39124 of 2015

Date:02.12.2015

Between:

Mohammed Idrees,

S/o Late Mohammed Ismail

..... Petitioner

And:

The Greater Hyderabad Municipal

Corporation, repled by its Commissioner,

Hyderabad and another.

.....Respondents

Counsel for the Petitioner: Mr. Vedula Venkatramana

Learned senior counsel

For M/s Bharadwaj Associates

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to set aside notice No.1/UC/W.No.121/CIR-14/WZ/GHMC/15, dated 27.11.2015, issued by respondent No.2, whereby he has called upon the petitioner to remove the unauthorised construction of tin room shed and compound wall, in purported exercise of his power under Section-636(1) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act').

I have heard Mr. Vedula Venkatramana, learned senior counsel appearing for the petitioner and Mr. Sampath Prabhakar Reddy, learned Standing Counsel for the Greater Hyderabad Municipal Corporation and perused the record.

Respondent No.2 has issued a notice under Section-434 of the Act on 03.11.2015 to the petitioner, wherein he has directed the petitioner to submit the title deeds and the documents relating to the above-mentioned structure including the BPS/BRS proceedings, NoC from the Fire Department, etc., within two days. In response to the same, the petitioner has submitted his explanation, dated 07.11.2015, wherein he has stated that he has constructed a boundary wall and temporary asbestos tin shed in the year 1992 and that he will obtain all permissions if he undertakes any construction in future. Thereafter, respondent No.2 has issued the impugned proceedings.

The main ground on which the impugned proceeding has been assailed by the petitioner is that the same was not preceded by the notices under Section-452(1) and 461 of the Act and also an order under Section-452(2) of the Act.

A perusal of the impugned proceedings shows that no reference has been made to the notices to be issued under Sections-452(1) and 461 of the Act and an order to be passed under Section-452(2) of the Act.

Mr. Sampath Prabhakar Reddy, learned Standing Counsel for the Greater Hyderabad Municipal Corporation, has not disputed this fact.

In my opinion, a notice under Section-636 of the Act cannot be issued, unless the procedure prescribed under Section-452 of the Act is followed. On this short ground alone, the impugned notice is set aside, however, leaving respondent No.2 with liberty to follow the procedure under Section-452 of the Act if it contemplates to take further action.

The Writ Petition is, accordingly, allowed to the extent indicated above.

As a sequel to disposal of the Writ Petition,
W.P.M.P.No.50435 of 2015 shall stand disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

02nd December, 2015

DR