

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NO.24227 of 2015

Between :

K.Hemalatha W/o.Jagan Mohan,
Aged 40 yrs, R/o.H.No.8-1-216, Shanti nagar,
Nirmal, Adilabad District.

.. Petitioner

and

State of Telangana,
Rep., by its Principal Secretary,
Municipal Administration and Urban Development Department,
Secretariat, Hyderabad & another.

.. Respondents

DATE OF JUDGMENT PRONOUNCED : 04.08.2015

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SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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1. Whether Reporters of Local Newspapers : Yes / No
may be allowed to see the Judgments ?

2. Whether the copies of judgment may be : Yes / No
marked to Law Reporters/Journals

3. Whether Their Lordship wish to : Yes / No
see the fair copy of the Judgment ?

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER :

The petitioner claims to have purchased land to an extent of 375 Square yards in Plot No.25, Sy.No.190 of Ramnagar Housing Colony, Nirmal, Adilabad District on 20.01.2010. Consequent to the said purchase the petitioner claimed to have been in possession and enjoyment of the said property. On 27.02.2015 the petitioner applied for grant of building permission to the 2nd respondent, to construct a house by paying appropriate fees. While so, by the impugned order in this writ petition, though it is coined as a notice, application submitted by the petitioner was rejected for the reasons assigned therein. The same is challenged in this writ petition.

2. Learned counsel for the petitioner contends that before taking such a decision, the petitioner was not put on notice and no opportunity of hearing was given, whatever is referred in the order regarding civil litigation, if only an opportunity was given, the petitioner would have explained and such an exparte decision could not have been taken relying on certain material, which was not made available to the petitioner, and that amounts to denial of reasonable opportunity and violation of principles of natural justice. Learned counsel further submits that a reading of the notice would also disclose that the respondent-Municipality entertained objections from third persons, obtained legal opinion and then passed orders, all this was behind back of the petitioner. He further contends that though appeal lies against such a decision of the Commissioner, but having regard to the fact that the order is passed in violation of principles of natural justice, the petitioner can not be compelled to avail the remedy of appeal.

3. Learned Standing counsel does not dispute the fact that no

notice was issued to the petitioner before passing such orders.

4. Having regard to the fact that building application submitted by the petitioner was rejected assigning various reasons, as contained in the impugned order and apparently no prior notice or opportunity was given on the material available with the Commissioner to take such a decision, the rejection *per se* without affording due opportunity is not valid.

5. Having regard to the same, the writ petition is disposed of, directing the Commissioner to treat the proceedings dated 10.03.2015 as notice, supply all the relevant documents, which are referred to and reflected in the order, within a period of two weeks from the date of receipt of copy of this order and on receipt of material supplied by the Commissioner, the petitioner shall submit her explanation. On submission of such explanation and on due consideration of the same, appropriate orders as warranted by law shall be passed regarding the building application dated 27.02.2015. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

04th August, 2015.
Rds

P.NAVEEN RAO,J