

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.378 OF 2015

ORDER

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This writ petition is filed for a writ of mandamus declaring the order bearing Rc.No.C8-53/2015 dated 13.01.2015 issued by the 2nd respondent under Section 115 and 116 of A.P.Capital Region Development Authority Act without issuing show cause notice as contemplated under the provisions of the said Act, as arbitrary and illegal and for a consequential direction to set aside the same.

The case of the petitioner is that the 3rd respondent accorded building permission vide D.Dis.No.219/2014, dated 28.06.2014 in favour of the petitioner to construct ground, 1st and 2nd floors residential building in RS.No.9/3 near D.No.24-96 at Yenamalakuduru Village, Penamaluru Mandal, Krishna District. In accordance with the said permission, petitioner is carrying with the construction and had laid pillars over the 2nd floor to construct water tank for the said building. While so, the 1st respondent enacted the A.P.Capital Region Development Authority Act and constituted the 2nd respondent in place of the VGTM UDA. In exercising the power of Section 115 of the Act, the 2nd respondent got issued a notice under Section 116 dated 08.01.2015 calling upon the petitioner to remove the construction specified therein immediately. On receipt of such notice, petitioner submitted his explanation to the 2nd respondent stating the reasons for making structure on the 3rd floor is to provide water tank. Subsequently, the 2nd respondent issued notice dated 13.01.2015 through the 3rd respondent calling upon the petitioner to remove the structures mentioned in the said orders alleging that the petitioner has not replied to the notice dated 09.01.2015 within the stipulated time. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner submits that though in the

impugned proceedings a reference is made to the notice dated 09.01.2015, no such notice was served on the petitioner. Only the provisional order dated 08.01.2015 was served on the petitioner. As such, the impugned proceedings are in violation of principles of natural justice.

On the other hand, learned Standing Counsel for the respondents submits that the Gram Panchayat is not entitled to grant permission for construction of ground + 2 floors building. She further submits that the petitioner has to obtain permission from the 2nd respondent for construction of multi-storied building. It is also stated that petitioner has to obtain permission under River Conservation Act.

In the instant case, since the record produced by the learned Standing Counsel shows that no such notice dated 09.01.2015 is served on the petitioner as referred in the impugned proceedings dated 13.01.2015, I am not going into the merits of the case, but only on the ground of violation of principles of natural justice, the impugned proceedings are set aside. However, it is open for the competent authority to issue fresh notice and on such notice, the petitioner shall submit explanation. Thereafter, the competent authority shall consider the explanation of the petitioner and pass appropriate orders in accordance with law.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 03.02.2015

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