

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.31288 of 2015

Dated 10.12.2015

Between:

Nikhil Kothari and 3 others

... Petitioners

and

-
GHMC rep. by
The Commissioner & Spl.Officer
Hyderabad and 2 others.

...Respondents

Counsel for the petitioners: Mr.K.K.Waghray

Counsel for respondent Nos.1 & 2: Mr.Sampath Prabhakar Reddy

Counsel for respondent No.3: Mr.Gandra Mohan Rao

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to set aside Proceeding No.36427/25/4/2013/3473, dated 26-08-2015, of respondent No.1 whereby it has cancelled the building permission issued in favour of the petitioners *vide* permit No.33676/HO/WZ/Cir-11/2014, dated 09-05-2014, in purported exercise of its powers under Section 450 of the Greater Hyderabad Municipal

Corporation Act, 1955 (for short 'the Act').

I have heard Mr.K.K.Waghray, learned Counsel for the petitioners, Mr.Sampath Prabhakar Reddy, learned Standing Counsel for Greater Hyderabad Municipal Corporation (GHMC) appearing for respondent Nos.1 and 2, and Mr.Gandra Mohan Rao, learned Counsel for respondent No.3.

A perusal of the impugned proceeding shows that on the complaint of respondent No.3, the building permission granted to the petitioners was cancelled by respondent No.1. Apart from various contentions raised on the merits of the case, the petitioners have assailed the impugned proceeding cancelling their building permission also on the ground that the notice stated to have been sent by respondent No.1 was not served on them. The communication, dated 24-09-2015, issued by the Sub Post Master, LIC Division Post Office, Hyderabad, filed in support of their plea shows that the cover sent through speed post was delivered to 'the Chief City Planner, GHMC, Hyderabad, HO Inward', on 30-07-2015. Though a specific plea

was raised by the petitioners regarding non-service of the notice, no evidence is placed by respondent Nos.1 and 2 to prove that notices were served. In my opinion, as cancellation of a building permission leads to serious adverse consequences, such an action cannot be resorted to unless notices are served and an opportunity of being heard is given to the aggrieved party. Therefore, on this short ground alone, I am inclined to set aside the impugned proceeding.

In ordinary course, this Court would have directed respondent No.1 to issue fresh notices to the petitioners as well as respondent No.3. However, as the learned Counsel for the petitioners has pleaded urgency on the ground that the construction work is stalled, this Court has called upon the learned Counsel for both the parties and the learned Standing Counsel for respondent No.1- GHMC to indicate a convenient date and time for hearing by respondent No.1. All the learned Counsel have agreed for fixing '22.12.2015' as the date of hearing. In view of the same, no notices of hearing need be issued to the petitioners and respondent No.3. Both the parties shall be

personally present on 22-12-2015 at 3.00 p.m., before respondent No.1. Respondent No.1 shall hold personal hearing, pass a speaking order and communicate the same to both the parties on or before 31-12-2015. Till this process is completed, the petitioners shall not proceed with the construction work and their entitlement to undertake further construction shall depend upon the outcome of the proceedings before respondent No.1.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.Nos.40451 and 40452 of 2015, filed by the petitioners for interim relief, are disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 10th December, 2015
LUR