

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.39413 of 2015

-
04.12.2015

Between:

K.Lakshmi Durga

.. Petitioner

and

The State of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration and Urban Development Department,
Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.G.Kalyana Chakravarthy

Counsel for respondent No.1: Government Pleader
for Municipal Administration and Urban Development (AP)

Counsel for respondent Nos.2 to 4: --

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The Court made the following:

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ORDER:

The petitioner, who is the owner of flat No.102 in a multi storeyed residential complex building, viz., Sri Lakshmi Villa Residency with stilt, ground and four floors, filed this writ petition, feeling aggrieved by the purported speaking order-cum-notice, dated 04.11.2015, issued by respondent No.3 under Section 636 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act').

On a previous occasion, when proceedings-cum-notice, dated 01.07.2015, were issued to the petitioner directing her to restore the usage of her flat by re-converting the same from commercial use to residential use, she has filed W.P.No.22721 of 2015. This Court disposed of the said writ petition, by order, dated 22.07.2015, observing that on a reading of the proceedings impugned therein, it appears that no prior notice was served on the petitioner calling for her explanation and that the impugned proceedings therein were straight away passed without such notice. Accordingly, this Court directed the said proceedings to be treated as notice and permitted the petitioner to submit her explanation within ten days from the date of the order. This Court specifically directed the Corporation to consider the petitioner's explanation and pass appropriate order within two weeks thereafter.

It is the pleaded case of the petitioner, which is not disputed by Mr.S.Lakshminarayana Reddy, learned standing counsel for the Greater Visakhapatnam Municipal Corporation appearing for respondent Nos. 2 to 4, that after disposal of the previous writ petition, the petitioner has submitted her explanation on 05.08.2015. However, a perusal of the impugned order shows that no reference whatsoever has been made to the said explanation of the petitioner. On the contrary, respondent No.3 has referred to the representation,

dated 14.09.2015, made by the rival party i.e., the Secretary of Sri Lakshmi Villa Residency for passing the order against the interests of the petitioner.

In my opinion, the impugned order runs directly contrary to the order, dated 22.07.2015, in W.P.No.22721 of 2015. It was incumbent upon respondent No.3 to consider the contents of the explanation, dated 05.08.2015, submitted by the petitioner before taking a decision in the matter. As respondent No.3 has not followed this fair procedure, the impugned order, dated 04.11.2015, is set aside, however, giving liberty to respondent No.3 to pass a detailed order afresh after considering the aforesaid explanation of the petitioner.

Subject to the liberty given to respondent No.3 as above, the Writ Petition is allowed.

As a sequel to allowing the writ petition, W.P.M.P.No.50340 of 2015 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

04th December, 2015

GHN