

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

Writ Petition No.40713 of 2015

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Date: 16.12.2015

Between:

K.Kodanda Ramulu

.. Petitioner

and

The State of Telangana,
rep. by its Prl.Secretary,
Municipal Administratin Dept.,
Hyderabad and another.

.. Respondents

Counsel for the petitioner: Mr.D.L.Pandu

**Counsel for respondent No.1: AGP for Municipal Administration
(TS)**

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The Court made the following:

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Order:

This Writ Petition is filed for a Mandamus to declare the action of the respondents in seeking to remove the construction made by the petitioner in respect of house bearing Door No.46-67 (old 46-72) (Plot No.312), situated at Krishnadevaraya Nagar Colony, Wanaparthi Town, as illegal and arbitrary.

The petitioner averred that he has obtained building permission from respondent No.2 on 18-08-2007 and constructed the same in accordance with the sanctioned plan. He further averred that on 27.12.2014, respondent No.2 has issued a notice stating that he has constructed the building “without sanctioned plan/contrary to the sanctioned plan” and that he shall stop construction and remove the construction already made, failing which further action as per the Municipalities Act, 1965, will be taken. The petitioner pleaded that on 21-01-2015, he has submitted reply stating that he has constructed the building strictly in accordance with the permission, dated 18.08.2007, and that he has not encroached any part of the municipal drainage. Apprehending demolition of the construction raised by him by

respondent No.2, the petitioner has filed this Writ Petition.

I have heard Mr.D.L.Pandu, learned Counsel for the petitioner, and the learned Counsel representing Mr.N.Praveen Kumar, learned Standing Counsel for Municipalities (TS).

A perusal of the impugned notice shows that the same is highly ambiguous and that it was issued in a printed proforma, which contains the allegations that the construction is made “without permission/contrary to the permission”. While issuing the impugned notice in such a proforma, respondent No.2 has not taken care to strike off one of the two allegations, which are mutually contradictory. This shows sheer negligence on the part of respondent No.2. Unless a notice is clear, unambiguous and unequivocal, the person, against whom such a notice is issued, is not expected to submit satisfactory explanation. Though, in the reply, the petitioner referred to the purported allegation of encroaching the drainage portion and denied the same, the above mentioned notice issued by respondent No.2 does not

contain any such allegation.

In my opinion, no action adverse to the interests of the petitioner can be taken based on the impugned notice, which, as observed above, is wholly ambiguous. On this ground alone, respondent No.2 is restrained from taking further steps in pursuance of the impugned notice. However, respondent No.2 is left free to issue appropriate notice to the petitioner giving details of the alleged illegal construction and the reason for issue of such notice. Further action in pursuance of such notice shall depend upon the explanation that may be filed by the petitioner and the decision to be taken by respondent No.2 thereon.

Subject to the liberty given to respondent No.2 as above, the Writ Petition is allowed.

As a sequel, WPMP.No.52564 of 2015, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 16th December, 2015
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