

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.25308 OF 2010

ORDER

The case of the petitioner is that he and his brother purchased the premises bearing D.No.11-5-392 admeasuring 292 sq.yards situated at Venkateshwara Colony, Saroornagar, Hyderabad under registered sale deed Doc.No.2963/03, dated 11.06.2003 from its absolute owner and are paying the necessary taxes to the concerned departments. Since the subject premises was an old construction, they have taken up construction work, while the efforts for building permission are in process. While so, the respondents issued impugned notice to petitioner's father under Section 636 of Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') directing the petitioner to remove the constructions made. The petitioner contends that the issuance of notice under Section 636 of the Act is illegal, since the same was issued straight away without issuing prior notice under Section 452 of the Act calling for explanation from him. It is also stated that the petitioner has already made an application under Section 455-A of the Act for regularisation of the constructions made. Aggrieved by the action of the respondents in trying to demolish the petitioner's premises without issuing prior notice, the present writ petition is filed.

Though interim order was granted on 13.12.2010, no counter is filed by the respondents.

Heard the learned counsel for the petitioner.

A perusal of the impugned proceedings goes to show that the same was not preceded by any prior notice under Section 452 of the Act. Since no counter is filed, the assertion of the petitioner in the writ petition that no notice is issued under Section 452 of the Act has to be taken as true and the writ petition has to be allowed.

Hence, without going into the merits of the case, only on the ground of violation of principles of natural justice, the writ petition is allowed. The impugned order is set aside giving opportunity to the respondents to issue

notice under Section 452 of the Act calling for explanation of the petitioner and thereafter take appropriate action in accordance with law. Since it is stated that the petitioner made an application for regularisation of the constructions under Section 455-A of the Act, it is needless to mention that if such an application is pending, the same has to be disposed of according to law before taking any action against the petitioner. No costs.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER

REDDY,J

Date: 07.10.2015

dv