

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

WRIT PETITION No.40881 of 2015

-
17.12.2015

Between:

Marri Ravinder

.. Petitioner

and

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

.. Respondents

Counsel for the petitioner: Mr.Polisetty Radha Krishna

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

Counsel for respondent Nos.2 and 5: Assistant Government Pleader
for Irrigation and Command Area Development (TS)

Counsel for respondent No.3: Mr.M.Ajay Kumar

Counsel for respondent No.4: --

Counsel for respondent No.6: --

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The Court made the following:

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ORDER:

This writ petition is filed assailing a notice, dated 08.12.2015, issued under Sections 452(1) and 461(1) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') by respondent No.6 Corporation, whereby the petitioner was called upon to submit his explanation as to why compound wall raised within the alleged FTL area of a tank and without permission should not be removed.

The petitioner pleaded that in response to the said notice, he has submitted his explanation on 14.12.2015 to respondent No.6 Corporation denying the allegation that he has constructed the compound wall within the FTL area. Apprehending that without considering the said explanation, respondent No.6 Corporation may remove his compound wall, the petitioner filed this writ petition.

After hearing Mr.Polisetty Radha Krishna, learned counsel for the petitioner, and Smt.P.V.Laxmi, learned standing counsel for Municipal Corporations (TS) appearing for respondent No.6 Corporation, this Court is of the opinion that the writ petition is premature, in that even if respondent No.6 Corporation is not satisfied with the petitioner's explanation, it has to necessarily pass an order under Section 452(2) of the Act and before removing the compound wall, it has to issue a final notice under Section 636 of the Act. If the allegations contained in the impugned notice issued by respondent No.6 Corporation are not correct and the petitioner submits proper material in this regard, he has no reason to apprehend that respondent No.6 Corporation will not consider the material that may be filed by him and drop further action. In this view of the matter, I am not inclined to entertain this writ petition at this stage.

Respondent No.6 Corporation is, therefore, directed to issue a notice of personal hearing to the petitioner and after considering the

explanation/objections of the petitioner and the submissions that may be made by him during the enquiry, the said respondent shall pass a speaking order before proceeding further under the provisions of Sections 452(2) and 636 of the Act. Needless to observe that till this process is completed, no steps for removal of the compound wall will be taken.

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

As a sequel to disposal of the writ petition, W.P.M.P.No.52788 of 2015 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

17th December, 2015
GHN