

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.P. No. 989 OF 2014

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ORDER :
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This writ petition is filed seeking writ of mandamus declaring the action of the respondents in issuing notice dated 30.12.2014 under Section 450 of HMC Act, 1955 to the petitioner as illegal and arbitrary and consequently to direct the respondents not to take any action basing on the aforesaid notice.

2. The case of the petitioner is that he is absolute owner and possessor of land to an extent of Ac.0.21 cents with AC sheet shed bearing GVMC Assessment No.100007/80745, ward No.56, in Sy.No.153/2b/1, Lankelapalem Village, Parawada Mandal of Visakhapatnam District, by virtue of registered document dated 13.02.2013. It is stated that petitioner made an application seeking permission for construction of ground and first floors in the subject property. Upon which, Officers of the respondent Corporation visited the subject land and granted permission for construction of the building vide proceedings dated 31.07.2014. It is stated that prior to permit order dated 31.07.2014, the petitioner paid an amount of Rs.4,75,000/- towards building license fees, open space costs and different heads and that petitioner has also gifted 249.58 sq.meters of land for the purpose of road widening vide gift deed dated 22.05.2014. Meanwhile, the respondent Corporation issued impugned notice dated 30.12.2014 stating that the petitioner has suppressed the fact about 33 feet layout road towards south side of his property and the said notice was received by the petitioner on 07.01.2015. The petitioner submitted explanation on 09.01.2015 along with relevant documents denying the contents of the impugned notice. Aggrieved by the said notice, the present writ petition is filed.

3. Heard learned counsel for the petitioner as well as learned Standing Counsel for the respondents 2 and 3.

4. Learned counsel for the petitioner vehemently contends that at the time of granting of permission for construction of building at the subject land, the officials of the respondent Corporation have verified the title of the petitioner and also made inspections and granted permission, as such, merely because of a complaint of third party, the respondent Corporation cannot initiate proceedings under Section 450 of the Hyderabad Municipal Corporation Act, 1955 and that there is no ground for initiating such proceedings against petitioner and that the same is initiated with malafide intention.

5. On the other hand, learned Standing Counsel for the respondent Corporation submits that since a complaint is made about encroachment of road, the officials of the respondent Corporation has inspected the site and issued the present notice. He would further contend that since the petitioner has submitted explanation, the same will be considered by the respondents 2 and 3 and after conducting an enquiry, will pass appropriate orders, in accordance with law.

6. The impugned notice was issued on the ground that the petitioner has obtained permission by suppressing the fact of existence of 33 feet road towards south of the petitioner's property, which aspect has to be examined by the authorities concerned but not by this Court. At the same time, the respondent authorities cannot issue notice and keep quiet without passing orders on the explanation submitted by the petitioner.

Since the petitioner has already obtained permission by submitting necessary documents, it is the bounden duty of the 2nd respondent to consider the explanation submitted by the petitioner to the impugned notice dated 30.12.2014 and pass orders thereon within a period of three weeks from the date of receipt of a copy of this order. If orders are not passed within the stipulated period, it will be open for the

petitioner to proceed with the construction as per the permission granted to him. However, it is open for the petitioner to submit a further detailed explanation along with documents and the same shall be considered by the respondent authorities in accordance with law. .

Accordingly, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending in this writ petition, shall stand closed.

_____ **A.RAJASHEKER REDDY, J**

30.01.2015.
Note: issue CC by 02.02.2015
B/o.
KVS

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 30-01-2015

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