

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.5723 of 2015

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Between:

Ambika Seagreen Guest House Hotel,
Rep. by its Director
Ambika Ramachandra Rao

PETITIONER

AND

1. The State of Andhra Pradesh, rep. by its Principal Secretary,
Municipal Administration & Urban Development Department,
Secretariat, Hyderabad and others.

RESPONDENTS

ORDER:

This writ petition is filed challenging the proceedings Rc.No.2317/2015/ACP-II, dated 20.02.2015 issued by the 2nd and 3rd respondents directing the petitioner to demolish the portion of building constructed in premises bearing H.No.7-24-3/2, Plot No.1, Kirlampudi Layout, Beach Road, Visakhapatnam, pending disposal of the application submitted by the petitioner along with revised plan as per the revised building Rules 2012 issued in G.O.Ms.No.168, dated 7.04.2012, as illegal and arbitrary.

Briefly stated, the petitioner constructed cellar, stilt, ground floor, 1st floor and 2nd floor in the premises bearing H.No.7-24-3/2, in accordance with the sanctioned plan approved by the respondents. The cellar and stilt floors, which are more than 50% of the total constructed area, were earmarked for parking purpose. According to Rule 13 of the revised building Rules 2012 issued in G.O.Ms.No.168, dated 07.04.2012, only 22% of the built up area is to be earmarked for parking place. Therefore, the petitioner has set up a small restaurant to meet the needs of inmates of the Guest House maintained by the Government of India, Ministry of Tourism, and submitted a revised plan as long back as on 01.08.2013 and 04.03.2015 to the respondent and the same are still pending. It is stated that the petitioner has been running the said guest house for the last three years. The main grievance of the petitioner is that though the applications dated 01.08.2013 and 4.03.2015 are pending for consideration of revised plan, the 2nd and 3rd respondents have issued the impugned proceedings dated 20.02.2015 which was received by the petitioner on 05.03.2015, purported to have been exercising the powers conferred under Section 452 and 461 of the Hyderabad Municipal Corporation

Act, 1955, directing the petitioner to remove the structures constructed in cellar and stilt portion within five days. Hence the present writ petition.

Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development for the 1st respondent and Sri S. Lakshminaryana Reddy, learned Standing Counsel for respondents 2 and 3.

The challenge in this writ petition is the show cause notice issued under Section 452 and 461 of the Act, by the 2nd respondent to remove the structures raised in the cellar and stilt portion of the building. The petitioner has not stated any reason as to and on what ground the show cause notice can be quashed, since it is not the case of the petitioner that the 2nd respondent has no jurisdiction. Instead of giving explanation to the said show cause notice, the petitioner has straight away rushed to this Court. No ground is made out by the petitioner to revise the plan submitted by the petitioner. However, since the petitioner was issued show cause notice directing to remove the structures constructed in the cellar and stilt portion within five days otherwise the respondents will demolish the same ends of justice would be met if the petitioner is permitted to submit explanation to the said show cause notice raising all the grounds stated herein above.

In view of the same, the writ petition is disposed of directing the petitioner to submit an explanation to the show cause notice before the respondents within a period of ten days from today, and the same shall be considered by the respondents appropriate orders shall be passed in accordance with law as expeditiously as possible. Till then status quo obtaining as on today shall be maintained by both the parties. However it is made clear that if the petitioner does not file explanation to the show cause notice within the time stipulated, it is open to the respondents to proceed with demolition in accordance with law. No costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

A. RAJASHEKER REDDY, J.

6th March, 2015
Js.

Note: Issue C.C. in two days.